

THE ETHICS OF HOMICIDE

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THE ETHICS OF HOMICIDE

A CONTEXTUAL CRITIQUE OF THE SANCTITY-OF-LIFE PRINCIPLE

WITH PARTICULAR REFERENCE TO

ABORTION AND REVOLUTIONARY VIOLENCE

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ABSTRACT

THE ETHICS OF HOMICIDE: A CONTEXTUAL CRITIQUE OF THE SANCTITY-OF-LIFE PRINCIPLE, WITH PARTICULAR REFERENCE TO ABORTION AND REVOLUTIONARY VIOLENCE

BY IVOR SHAPIRO

Society never absolutely prohibits homicide: there are "grey areas" in which it is sometimes tolerated or even encouraged. Moral discussion of each area is usually carried on in isolation from the others, and perhaps for this reason, frequently ignores or underestimates the complexities of the morality of killing. This thesis attempts to identify a general method for analysing such issues, so that they can enrich one another.

A contemporary theological survey indicates that there should be a balance in Christian ethical method between the polar values of **obedience** in respect of general standards, and **freedom** to exercise individual responsibility. This implies recognising a place for intuitions, and specifying a way in which these can be subjected to criticism.

In contrast, the Sanctity-of-Life Principle seeks to impose a universal prohibition on the killing of "innocent" human beings. While the Principle provides a useful general guideline, it is deficient as a moral norm--partly because of fatal difficulties associated with the concept of innocence.

The method adopted in this thesis is that suggested by

Philip Wogaman: methodological presumptions are identified and then tested in a utilitarian way. For the ethics of homicide, I propose a primary presumption favouring the preservation of life, and various secondary and linguistic presumptions.

The contextual framework of the thesis is limited to two specific issues--abortion and revolutionary violence.

Revolutionary violence is a form of war, which involves homicide on a grand scale. Christian moral tradition has evolved to a selective position on war--the just-war doctrine--which has in recent years become the basis of some justifications of violent revolution. Significant theoretical problems are associated with the just-war doctrine, but the general principle of recognising the authority of the State is not a fundamental obstacle to revolutionary violence. Non-violent strategies are frequently wrongly dismissed as unrealistic, and the long-term negative effects of violence are sometimes underestimated. In general, when scrutinised in the light of the presumptions of the ethics of homicide, the case for revolutionary homicide is problematic, but cannot simply be dismissed--even if only because of the agony of conscience which it usually reflects.

Abortion is not obviously a matter of homicide, but rather of killing a being who may or may not be a human person. The presence of this theoretical doubt indicates a need for probabilistic decision-making. Since there is, however, a prima facie case for treating the foetus as a

human being, the presumptions of the ethics of homicide do have a contribution to make to the abortion debate. In the light of these presumptions, one finds that spurious arguments have been used to defend abortions in various, but not all, situations.

Conclusions: Contextual criticism reveals the Sanctity-of-Life Principle to be fatally inadequate as a means of resolving dilemmas. In contrast, the utilitarian method of identifying and testing presumptions produces a number of surprising results which testify to its potential for the various "grey areas" of the ethics of homicide.

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INTRODUCTION
THE NEGLECTED ETHICS OF HOMICIDE

Desire for wisdom! Explore everything around you, penetrate to the furthest limits of human knowledge, and always you will come up against something inexplicable in the end. It is called life. It is a mystery so inexplicable that the knowledge of the educated and the ignorant is purely relative when contemplating it.

Albert Schweitzer¹

For Albert Schweitzer, human and other forms of life deserved reverence above all other things and values. And, though not frequently with the same degree of fervour as Schweitzer and other dedicated pacifists have exhibited, the human conscience in every age and culture has tended to place a high value on the preservation of life. Probably for as long as humankind has lived in community, there have been some moral and legal strictures against the taking of a human life. Humanity's respect for life is one of its key values. The alternative, a pre-civilised "survival of the fittest" form of communal existence, would fail to meet any but the most elementary human needs.

Yet people do kill one another. Homicide (the killing of a human being) is as much a part of social life as are

¹Albert Schweitzer, Reverence for life (London: SPCK, 1970), p. 114.

realities like love, hate, sex, exploitation, work, rest, and politics. Sometimes, these killings take place without social disapproval. The killing of an enemy soldier (or of hundreds of enemy civilians in a key strategic facility) can earn medals for the killer or killers, while a civilian who kills in self-defence or in defence of his/her family's lives or property, is usually thought to deserve understanding and support. Along with strictures against homicide, then, most societies have enshrined the moral principle that in some circumstances homicide is justified or even necessary. While there are many individuals who regard homicide as unacceptable under all circumstances, societies have tended to tolerate both interpersonal homicide (such as killing in self-defence) and international homicide (war).

In addition, most societies accept that homicide can be a function of the state in the maintenance of law and order (the killing of a pursued criminal; capital punishment), and the idea of euthanasia (homicide as an act of mercy) is at least a subject of moral debate in most places where it is not actually allowed by law in some form or other. On the other hand, wanton homicide--which may be defined as homicide arising out of the greed or caprice of individuals --is universally both morally and legally proscribed.

Forms of homicide can thus be classified according to the degree of social acceptability they tend to command. At one end of the spectrum, there are forms of homicide which are almost everywhere both regarded as morally legitimate and legally sanctioned (for example, killing an enemy soldier). On the other pole, there are forms that are almost

never regarded as legitimate, and are classed legally as murder. Between these two extremes, there are vast "grey areas" consisting of forms of homicide which are the subjects of moral debate in many societies. These forms include:

- * EUTHANASIA, where homicide is usually (at least in modern western society) legitimated by reference to the needs of the person killed;
- * CAPITAL PUNISHMENT, where homicide is legitimated by reference to the need of the society for protection from serious classes of crime;
- * REVOLUTIONARY VIOLENCE, where homicide is legitimated, under certain conditions, by reference to the need for social change;
- * SUICIDE, when this is justified ethically as a "necessary sacrifice", rather than being simply a non-ethical act of despair; and
- * ABORTION (when it is regarded as homicide at all-- i.e. when the foetus is regarded as having the moral status of a human being). Intervention to terminate a pregnancy is most frequently legitimated by reference to various needs of the mother, although, as will become clear later, alternative motivating factors are frequently introduced.

The neglected ethics of homicide

In the "grey areas" of the ethics of homicide, the issue of homicide itself is often neglected or oversimplified. For example, in the course of a debate about abortion, one might come across this type of statement:

Where a pregnancy arises out of a rape, the victim should be allowed to decide for herself whether or not the pregnancy should be terminated. [I shall call this Statement "A"]

Here, the moral question is focused on (1) the right of the victim to be spared additional pain, emotional suffering, and inconvenience; and/or (2) the adverse moral circumstances under which conception took place. The issue of homicide is not addressed within this type of statement--either because the fetus is not regarded as having the moral status of a human being (a complex question which will be examined later in this study), or because the matter of homicide is thought to have less moral significance than the victim's violated rights.

On the other hand, one might during the same debate hear--this time from the mouth of an opponent of abortion--a statement like this:

Abortion is always wrong, because it involves the murder of an innocent human being. [Statement "B"]

In this type of statement (unlike type "A") homicide is addressed as central, but is oversimplified. Apart from ignoring the doubt that exists concerning the moral status of the fetus as a human being, this statement presupposes that homicide in this instance would be synonymous with murder. In other words, a morally conclusive term ("murder", which means criminal killing) is substituted for a more neutral term ("homicide", which means killing with or without culpability), leading to the natural conclusion that this form of homicide is always wrong. Yet the person

making this statement will usually quite readily acknowledge that there are numerous other types of circumstance where homicide is not murder. The ethical issue of homicide has thus been simplified in this type of statement to suggest that where the victim is unborn, homicide is murder (and therefore always wrong), whereas the killing of a born victim may or may not be justified, depending on the circumstances.

This tendency to either avoid or to oversimplify statements concerning homicide is by no means confined to the abortion debate. In debating the legitimacy of revolutionary violence, for example, one might encounter a statement such as:

Violence in the cause of revolution is often necessary in order to bring about structures which are more just and benevolent for all citizens. [Statement "C"]

As with statement "A" above, this type of assertion blurs the issue of homicide, focusing instead on the issue of social justice. The question, "under what circumstances can killing be legitimate?"--which is the central question of the ethics of homicide--is not addressed. Indeed, words like "killing" are frequently avoided altogether in favour of more abstract terms like "violence" or "pressure". It is simply presupposed that, at least under certain circumstances, it is acceptable to kill in the cause of social change.

Again, one might encounter the following type of statement on the other side of the debate:

Revolution is never justified, because it involves the wholesale slaughter of persons. [Statement "D"]

As with statement "B", such an assertion oversimplifies the ethical dilemma. If homicide is ever capable of justification, what are the parameters of such justification? Is there no extent of suffering, no type of governmental oppression, no number of deaths as a result of an unpopular regime's greed for power, sufficient to indicate that some deaths now might be called for in order to prevent many more in the future? Typically, those who make statements of type "D" tend to avoid the complexities of such questions, preferring neater, more absolute moral judgements. As is the case with those who tend to make statements of type "B" concerning abortion, absolute pacifists constitute a small minority of those making the statement. Rather than any clear analysis of the ethics of homicide, there is a tendency to presuppose that the concern for justice cannot provide sufficient legitimation for the taking of human lives.

The above discussion has shown that on both sides of the debate surrounding a "grey area" ethic of homicide, statements will often be made which will either shy away from from or ignore the complexities of the wider ethical issues raised. The primary question should not be "is this murder?" nor "is this necessary?" but rather: "Can homicide be justified under these circumstances?" No discussion of a "grey area" issue will be complete without an attempt to answer that central question. But to discuss that question is a complex matter, and this thesis is an attempt to discover some disciplined way in which the task can be

tackled. The approach will primarily be within the perspective of theological ethics, but also enlightened by considerable work that has been done by secular philosophers who have questioned a principle that some theological ethicists have taken for granted--the notion that human life is "sacred". How sacred? Why sacred? And within what limits? These are the theological questions which give rise to this thesis.

Contextual reference points

The questions indicated above have crucial relevance for all the "grey area" issues (and even for re-examining forms of homicide that have gained general social acceptance). This study is, however, confined to two contextual issues, abortion and revolutionary violence. These issues, it must be stressed, are discussed specifically with a view to grounding the more abstract debate upon the concrete realities of justification of homicide in actual situations.

The question may well be asked: Why an examination of specific issues at all? Would it not be easier to confine the discussion to a theoretical analysis of the general issue of homicide? It would be easier but ethically questionable. Perhaps the greatest advance made in theological ethics during the twentieth century has been to ensure that "norm" and "context" are never far separated in the mind of the analyst. Especially in a study of this kind, dubious purpose would be served by abstract generalisations about "homicide" without a disciplined grounding in the very problems that provide the issue with its urgency and give it concrete reality. Thus at every

stage of the present analysis, reference will be made to --and insights tested against--the two issues chosen as the contextual backdrop for this thesis. (A fuller examination of the limitations of uncontextual, purely normative approaches to ethics will be undertaken in Chapter 1.)

Nevertheless, it must be emphasised that this thesis is not a study of abortion and revolutionary violence per se, but a study in the ethics of homicide. It is a contextual critique of the problems surrounding the notion of the "sanctity of life".

Before proceeding to this study, however, a question must be answered. Granting that the ethics of homicide represents an important subject for study, and that this study must be grounded in the context of certain specific issues, it may still be asked why these two issues of abortion and of revolutionary violence have been chosen, rather than any of the other "grey area" homicide issues. The abortion debate is arguably the most pertinent homicide-related issue within individual ethics today, and revolutionary violence is perhaps the most pertinent social ethical issue. These two issues thus provide especially useful contextual studies within which the ethics of the "grey areas" become both explicit and theologically intriguing. The most frank answer as to why abortion and revolutionary violence have been chosen, is, however, that the writer happens to have a special interest in each of these two problems, and in their interrelationship. Each has already captured my concern in an academic way, and it has been the consideration of these two ethical problems

that has given rise to my exploration of the more general question that is considered in this thesis. It seems to me, after having studied the ethics of abortion and the ethics of revolution separately from each other and in isolation from each other, that there is a need to draw the various arguments surrounding the ethics of homicide together, and to allow the debates--so often conducted without reference to one another--to cross-fertilise, challenge and elucidate one another. If such a process could be encouraged and assisted in a wider context, it might facilitate a debate in which those who tend to adopt a more absolutist position on an issue re-examine their approaches in the light of the problems raised by a broader view of homicide. For example: It is possible for people to express strongly anti-abortion views at the same time as justifying homicide in the name of a revolution of social justice, and never appear to suspect that there is a potential moral contradiction between their two views--both of which views might, in the opinion of the proponents, have a strong basis in Christian religious teaching. On the other hand, some who argue strongly against wars of all kinds are quite serene in the face of escalating abortion-on-demand, never having considered the one issue to be linked to the other. If any homicide issue were approached from the primary perspective of the ethics of homicide itself, the result might be a partial de-absolutisation of supposed norms, and consequently a more open debate on the issue. The two issues of political violence and of abortion seem to me to be sufficiently complex and to possess enough intriguing features to serve the end of placing the Sanctity-of-Life Principle under the

spotlight of rational debate. As a possible consequence of such a process, some stalemated debates on other "grey area" homicide issues may be opened up as well.

The two debates also have an engrossing common characteristic. Neither constitutes a stereotypical debate between radicals on the one hand and liberals or conservatives on the other. The divisions among opponents to oppressive regimes, on the matter of violent versus non-violent strategies, are widely recognised. On the matter of abortion, I recall having taken part in numerous heated discussions which have been characterised by not being able to predict where a particular person would take a stand. I remember in particular a sociologist, who described herself as a radical and a feminist, saying that even after intensive study and reflection on the issue, she could not identify a truly radical or feminist position on abortion. The particularly interesting feature of both the abortion debate and the revolutionary violence debate is, then, that these debates divide liberals, as they divide radicals and conservatives and those who do not belong to any such movement. This is a feature not shared to anything like the same extent by the debates over such matters as capital punishment and euthanasia.

General approach

There are many possible ways to tackle such a study. The approach adopted here is as follows.

In Chapter 1, the primary question of methodology itself is addressed. The law-Gospel debate is assessed in an attempt to draw conclusions on the relationship between obedience and freedom in the Christian moral life. The task

of Christian ethics is not to identify universal norms, but to enlighten moral dilemmas within their unique contexts, by reference to Christian values based on a critical analysis of Scripture and tradition. Traditional norms, those perceived aspects of divine law which have guided moral teaching in the Judeo-Christian heritage, have a guiding, but certainly not an absolute value for the Christian confronted by a moral dilemma. The Bible is commonly regarded as a uniquely central source of these norms, but I show in Chapter 1 that neither the Bible nor post-Canonical writings should be approached with a view to finding simple solutions to complex problems. The biblical hermeneutics debate, and more especially the sociological study of the Bible, has done a great deal to expel neo-fundamentalistic approaches to biblical ethics as a means to contemporary problem-solving. In this context the Bible is preferably seen as a source of the faith in the context of which moral problems can be solved. Contextual or social analysis is as essential a tool of Christian ethical decision-making as exegesis, and that analysis must be carried out in dialogue with those social and other disciplines best qualified to elucidate the problems under review. Also in this chapter, I discuss the possibility that negative acts can be required of Christians as "necessary evils". I examine, and reject, the form of argument which suggests that such negative acts should be excluded because they might constitute the first step on a "slippery slope" towards the destruction of morality. I then propose a methodological approach which accepts the need for contextuality without losing sight of guiding principles, and which further acknowledges the

significant part played by intuition in people's ethical decisions. My suggestion is that intuitions should be examined critically, rather than ignored. To recognise intuition as an essential part of decision-making enables the ethicist to use it in debate without allowing it to dominate. The method I propose in concluding Chapter 1 is based on Philip Wogaman's work, which calls for "methodological presumptions" to be identified and tested in the context of actual dilemmas. In this way, I show that the whole study of the ethics of homicide must be contextual--rooted in the analysis of situations involving choices regarding "grey area" acts (especially, for this thesis, abortion and revolutionary violence). At the same time, I recognise the existence of ethical principles and resources which facilitate a viable and definable response to a given moral problem.

In Chapter 2, I give critical (and, of course, contextual) attention to the idea of the sanctity of life. Drawing on the insights of Christian tradition both within and outside of the Canon of Scripture, it becomes clear that the preservation of human life has been accorded great, if not supreme, moral value in Judeo-Christian ethics. Life, in religious terms, has been viewed as "sacred", but its preservation is not the supreme norm of Christian morality. The Sanctity-of-Life Principle--which states: "One ought never to kill an innocent human being"--is criticised in this chapter, in the light of the reservations on pacifism expressed in Scripture, historical Christian doctrine, secular philosophy, and contemporary theology. The vital word in the Principle, "innocent", is especially

problematic. The chapter goes on to seek a general answer to the question: Why, and in what way, and subject to what limitations, can human life be considered to have supreme moral value? The general answer appears to be that the preservation of a human life is of high, but not necessarily supreme value in resolving an ethical dilemma. Homicide, even where the one killed is innocent, may ethically be contemplated where commensurately high values are threatened, but the contemplation of such acts must be disciplined by severe restraints.

Part 2 of the thesis consists of a detailed examination of the two chosen "grey areas" of the ethics of homicide. Before addressing these issues, I extract from the discussions in Part 1 certain presumptions: one primary presumption for the preservation of life, four secondary presumptions placing further restraints on the process of choosing to kill, and a number of linguistic presumptions concerning the decision-making process itself.

The particular issues of abortion and of revolutionary violence (and, occasionally, other types of homicide) are referred to briefly throughout this thesis, whenever contextual elucidation of a theoretical point is appropriate, but in Chapters 3 and 4 the two issues are examined in more detail. This is essential if the study is to dig deeper than the level of abstractions and generalisations, instead producing methodological insights as well as possible contextual standards that will be valuable in exploring the ethics of homicide in a way that is helpful to decision-makers. Thus the complexities of these issues are fully explored, and an attempt is made to

PART ONE

BROAD PRINCIPLES

CHAPTER 1
DECIDING ABOUT HOMICIDE:
IN QUEST OF A METHOD

From its very origins, the Judaeo-Christian heritage has never been lacking in normative statements concerning homicide and the sanctity of human life. The first book of the Bible sets the tone with: "Your brother's blood is calling out to me from the ground." (Genesis 4:10) The next book takes up the theme in a straightforward-enough way: "You shall not murder." (Exodus 20:13) In the next book we find: "When one man strikes another and kills him, he shall be put to death." (Leviticus 24:17-19) And so this sub-theme of revelation continues through the rest of the Bible until the last book--"The rest of mankind who survived these plagues still did not . . . repent of their murders . . ." (Revelation 9:20-21)--and on into the post-Biblical age. Later in this thesis, I shall show in some detail how the Biblical and later theological writings have repeatedly affirmed a high moral value--though far from an absolute one--for human life. As the years have gone by, these affirmations have been reflected in the statutes of both canon and civil law, prohibiting certain kinds of homicide, while at the same time conceding that under certain other circumstances a person may legitimately be killed.

Some would assume that the task of a study in the

ethics of homicide would be simply to list and compare the various normative statements on the matter that can be found in Scripture. Others would add the various authoritative statements that have been made by the hierarchy of the church over the centuries. I shall show later that an effort along these lines, however exhaustive, would not produce a helpfully conclusive result. Moreover, I argue in this first chapter that in principle the task of theological ethics has to be a somewhat more complex exercise. My argument is presented under four headings. First, the complementary values of OBEDIENCE AND FREEDOM will be considered as an essential tension in Christian morality. Second, the SOURCES of theological ethical reflection will be explored, examining, for example, the moral usefulness of Scripture and of tradition. Third, I shall examine certain SPECIAL PROBLEMS that pertain to the method to be adopted in exploring the ethics of homicide, as opposed to some other areas of morality. And finally, I shall proceed to the central proposal of this thesis: a suggested METHODOLOGY which can give account of the challenges presented, and the insights derived, under the first three headings. The remainder of this thesis will be devoted to an effort to test and apply the method I propose, within the context of two specific focal issues, in order to make some headway in the broad sphere of the morality of taking life.

1.1 Obedience and freedom: the ideal couple

Where should one begin the quest for an ethical method today? Christian ethicists--and especially Protestant ones--are obliged to choose among a host of possible starting points. One might, for example, begin with a

history of tradition concerning ethical theory, but this would only serve to accentuate the range of options, in effect delaying the beginning of the journey in order to check the map. Of course, that is not in itself a bad idea, but maps are not generally used to help one find out where one is beginning a trip: they are more helpful later, in discovering how to get somewhere else. Another possible starting point is that adopted by so many twentieth-century ethical treatises: a consideration of the relative importance of principles and context in ethics. But I believe this form of argument to have almost exhausted itself by now. The normative and contextual aspects of moral reflection are both essential, and hardly anyone would disagree that they complement each other in the course of modern ethical analysis. James M. Gustafson has demonstrated convincingly that the debate is "misplaced" today:

The umbrella named "contextualism" has become so large that it now covers persons whose views are as significantly different from each other as they are different from some of the defenders of "principles". The defenders of the ethics of principles make their cases on different grounds, and use moral principles in different ways.¹

Gustafson shows that wherever one takes one's stand in this "context versus principles" debate one is likely to--and should--make use of both general principles and situational

¹James M. Gustafson, "Context versus principles: a misplaced debate in Christian ethics," Harvard Theological Review 58,2 (April 1965): 173

analysis (among other things) in contributing to the resolution of ethical dilemmas.

There are other possible starting points on the road towards an ethical method. John Howard Yoder, for example, makes a strong plea for a return to the direct, naive-sounding method of looking to Jesus as the normative embodiment of Christian morality¹. For him, the starting point would be an examination of the the life and teachings of Jesus. Such an examination is by no means neglected in this thesis, but it seems to me an inappropriate starting point, as it assumes a method the validity of which is, in my view (for reasons I address especially in Chapter 2) highly debatable.

In my opinion, the most helpful starting point is to ask a question which has to be answered before an ethical methodology can begin to be considered. That question concerns the extent to which the Christian life is a matter of obedience and the extent to which it is a matter of freedom. If the Christian moral life is primarily a matter of obedience, then the most helpful ethical method will be one which seeks to define as clearly as possible, and in as much detail as possible, the deontological norms which must be obeyed. If it is primarily a matter of freedom, then ethical method will be a matter of clarifying options and consequences, so that individual Christians can be helped in making decisions which will rest, presumably, on act-utilitarian considerations (that is, decisions concerned

¹ John Howard Yoder, The Politics of Jesus (Grand Rapids, Michigan: William B. Eerdmans, 1972), pp. 11-25.

with discovering which action in a situation will lead to the most desirable end). But if both obedience and freedom have complementary roles to play (as I shall argue is the case), then a method will have to be found of responding to both of these needs in the Christian moral life.

The theological dispute which throws the most vivid light on the matter of obedience and freedom is the dispute over law and Gospel. The contemporary debate's origins lie in fundamental challenges posed to Roman Catholic theology by Luther, Calvin and their disciples, but it has been given new life in this century, especially as a result of the work of Karl Barth.

It is probably true to say that the dominant stream of Christian tradition down the centuries has held that the thrust of the moral life is conformity to certain defined laws of behaviour. Catholic tradition speaks of discipline, merit, and sanctification in this context. Protestant orthodoxy speaks of the Tertius usus legis (third use of the law), that is, a guiding use of the law for Christians. The first two uses of the law in this formula precede the radical act of believing the good news of Christ: law functions first in a civil or political way, to RESTRAIN people from social and political evils, and second in order to CONVICT sinners of their sin, and lead them to the saving grace of the Gospel. Believing Christians (at least to the extent that they do believe), have no need of these first two uses. But for them law has a third use--to provide GUIDANCE which proceeds from the Gospel itself.

On the other hand, many theologians hold, in the tradition of Luther, that Christians are liberated by Christ

from all need of law. This proposition is not anarchistic but antinomian: it usually stresses self-imposed behavioural limits accepted by Christians in the name of love. While antinomians may concede that it can be helpful to take general norms into account when making moral decisions, they insist that the Gospel frees Christians from the obligation of unconditional obedience. Law per se is in opposition to, and a denial of, the freedom promised by the Gospel.

Of course, seminal features of the law-Gospel debate can be found within Scripture: in the Gospels (in Jesus' comments on righteousness), in Acts (regarding the religious duties of converted Gentiles), in the apparent conflict between the epistles of Paul and James concerning faith and works, and in Paul's arguments with Gnostic antinomians on the one hand and Jewish circumcisors on the other. Paul's arguments on the matter were crucial for Martin Luther. Luther acknowledged the outwardly useful civil use of law and its inwardly pedagogic usefulness in leading the sinner to confess a need for Christ. But he held that insofar as the Christian is a believer there is no possibility of a third use of law. Once the law has led the sinner to Christ, it has achieved its total purpose.¹

Like the two-kingdoms doctrine of which it forms an important part, Luther's antinomianism is frequently misunderstood. His vision of the Christian life is a

¹ Martin Luther, A commentary on the Epistle to the Galatians, trans. Theodore Graebner (Grand Rapids, Michigan: Zondervan, 1949), pp. 141-147.

dialectical one. At one and the same time, Christians are citizens of heaven and of the world. God rules over both heaven and earth, but within this rule, or kingdom of God, there is a "worldly regiment" and a "spiritual regiment". The Christian is a member of the "spiritual regiment", but at the same time must live in the world, in which worldly realities must be recognised¹. Just as in the world there is a dialectic between the spiritual and worldly communities, so within the individual Christian there is a continuing dialectic between the "inner man" and the "outer man"--between the saint (believer) and the sinner (who by his/her sin, denies faith). Both are, realistically speaking, present in the Christian person, just as both the worldly community and the spiritual community are present in the world under God's rule. And it is God who rules on both sides of the line, but in different ways. The civil community is ruled by law, since only law can be understood and applied in secular society. The ecclesial community, however, is free of law, since God rules there by the Holy Spirit of grace². In the same way, individual Christians are subjects of God both in their inner and outer natures. But while the inner person (the saint) is free, relying on God's promises rather than seeking to obey impossible

¹For an especially helpful assessment of the two-kingdoms doctrine, see Jürgen Moltmann, On Human Dignity: Political Theology and Ethics (Philadelphia: Fortress Press, 1984), pp. 61-77.

²Paul Althaus, The ethics of Martin Luther (Philadelphia: Fortress Press, 1972), ch. 2.

commandments, the outer person (the sinner) can only receive God's word in the form of law, in order to control the lustful appetites which would otherwise be dominant.

Within this dialectical framework, as Forde¹ shows, a third use of the law is inconceivable. It would obscure the strict distinction in all of Luther's work between law and Gospel, wrath and grace, and so on. Nevertheless, it would be wrong to say that in Luther's thought there is no continuing significance of the law for Christians. Though for the purposes of his strictly dialectical method he would never use the words "sin" or "law" in the same breath as "Christian" or "freedom", it is clear that he recognised that in reality, since they live in the world, Christians have as much need of law as anyone else. That does not mean a third use, but the first and second use of the law, since it is in the light of sin in the worldly community, rather than in the light of the freedom of the spiritual community, that the need for law exists as a restraining and converting force. As Klug² puts it, Luther "never denied the continuing significance of the law in the sinner's life as a guide to godly living and behaviour"--even when the sinner happens also to be a Christian!

¹ Gerhard O. Forde, The law-gospel debate: an interpretation of its historical development (Minneapolis: Augsburg, 1969), pp. 193-194.

² Eugene F. Klug, Getting into the Formula of Concord: A history and digest of the Formula (St Louis, Missouri: Concordia, 1977), pp. 46-48.

John Calvin had a far more positive approach to law than did Luther. In Calvin's writings, the law appears as a great blessing for believer and unbeliever alike, and there is true harmony between law and Gospel. While he agreed with Luther that law has both a convicting and a civil usefulness, Calvin held that there is also a third use of the law, "most appropriate" for the Christian. Law is "the best instrument for enabling [believers] daily to learn with greater truth and certainty what that will of the Lord is which they aspire to follow, and to confirm them in this knowledge"¹. Thus the two Reformers agreed that the process of regeneration is always incomplete, but Calvin did not express this in dialectical terms. Rather, he unashamedly asserted that believers need the law as much as anyone else does--not just in the civil sphere, but for continuing guidance. Moreover, "even in the case of the spiritual man, inasmuch as he is still burdened with the weight of the flesh, the Law is a constant stimulus, pricking him forward when he would indulge in sloth"². Perhaps this dual guiding and "pricking" use of the law for the believer is not very far, in the last analysis, from Luther's reluctant admission of a continuing significance of law for that aspect of the believer's life which has not yet been redeemed by grace. But the difference between the two is less a matter of linguistics than of instinct.

¹ John Calvin, Institutes of the Christian Religion (London: James Clarke, 1962), p. 309.

²Ibid.

Underlying the two expositions is, in Calvin, an overriding pessimism about people from which he derives his positive attitude to religious norms. Luther, on the other hand, was firmly optimistic about the radical change that the believer has undergone in being liberated by Christ from the world, and thus he refused to grant that the law can be a means of knowing God's will for the church as a spiritual community.

Despite these differences, the fact that the law had--in some sense--continuing significance for the believer in both Luther's and Calvin's systems, led quite unsurprisingly to the adoption of the third use of law in the orthodoxies of both Lutheran and Calvinist Protestantism. Thus the Heidelberg Catechism defines good works as "done out of true faith, in accordance with the Law of God"¹, and while the Formula of Concord underlines Luther's view that regeneration is never complete "in this world", it concludes that "thus the Law is and remains the same, both for the . . . regenerate and unregenerate, namely, the unalterable will of God"².

While Protestantism was consolidating its orthodoxy, so was Catholicism. There was no law-Gospel tension at all in the Council of Trent's formulations. Law was as much part of its Gospel as was grace. In contrast to Luther, the Council held, in its Decree on Justification, that it is

¹Question 91, as cited in Arthur C. Cochrane, Reformed Confessions of the sixteenth century (Philadelphia: Westminster Press, 1966), p. 322.

²Article VI, cited in Klug, pp. 89-90.

both possible and necessary to obey God's commandments: otherwise, how could they have been commanded by God? All people nonetheless do fall into sin, and need to make the "cry of the just: 'forgive us our trespasses'."¹ While justification begins in conversion and baptism, it continues through the life of the believer². Therefore, no one should be "vainly confident" of justification³ but all should work for its "increase"⁴ through observance of God's and the church's commandments. The church thus has as one of its functions the safeguarding and promotion of law, while also proclaiming divine forgiveness for the failures of those who at times do not obey it in its fullness.

Thus law has a continuing significance in both Catholic and Protestant orthodoxy. The precise nature of this significance is rather different in the two traditions, since for the Catholics, obedience to law is a way of completing the divine work of justification, which Protestantism considers already complete for the believer. But on the question of whether or not the law has continuing significance, the differences among the theological systems of Luther, Calvin and post-Reformation Catholicism represent more a matter of context and instincts than a serious divergence with practical consequences for the moral life.

¹The canons and decrees of the Council of Trent (London: Routledge, 1851), chap. XI.

²Ibid., chap. V.

³Ibid., chaps. IX, XII.

⁴Ibid., chap. X.

In this century, however, the foundations of the debate have been shaken by the challenge of Karl Barth.

In Barth's "evangelical theology", the great divide is not between law and Gospel but between God's word and man's word. From this perspective, Gospel and law belong on the same side of the line--both are aspects of God's word--and Gospel always comes first, because all theological truth (whether concerning God or his creation or the reconciliation of the two) proceeds from the good news of divine grace. Thus the traditional concept of law leading people--either pedagogically or by means of convicting the conscience--towards Gospel faith, is impossible. No one could be led to the Gospel by law, except in the negative sense that death leads to life. Rather, "we must first of all know about the Gospel in order to know about the law."¹ Law before or without Gospel is incomprehensible and distorted, since law is a "form" of the Gospel, whereas grace is its content. Since form is unintelligible without content, and vice versa, law requires Gospel and vice versa. Although in a given situation law may take the form of human commands, faith will recognise it as either God's word (to be obeyed) or man's word (to be disregarded). Faith depends, of course, on Gospel, and thus always it is Gospel that leads to correct apprehension of law. Thus, for Barth, "the relationship of law to Gospel, form to content, wrath to love, is a relationship of dialectical unity. Each is

¹ Karl Barth, Community, State and Church (Gloucester, Massachusetts: Peter Smith, 1968), p. 72.

necessary to its opposite, yet the two are never to be synthesised."¹ Barth blamed Luther's formulation (law leading to Gospel) for the support of the "German Christian" theologians for Nazism, since in Luther's dialectical system political ethics is a separate matter from the divine word of grace contained in the Gospel. Instead, he insisted that God's claim is part of the Gospel: because of the divine word of grace, whatever situation the Christian may have to deal with, he/she will be able to hear the divine word of law. Part of the good news, then, is that the Christian can discern the "command of God".

And this divine command is not, for Barth, something to be found in universal norms, rules, or principles, but in the ethical "event". The activity of God can be recognised in any situation, if the seeker of God's word is in a true relationship with God, because such a relationship (the result of faith in response to the Gospel) will "ready" or "place" the Christian to identify and respond to the command.² This idea that God's claim proceeds from the Gospel is by no means a new way of stating the third use of law: for Barth this is not a third use but the only way in which the concept of law can be of any use. A further and even more significant difference between Barth and his more orthodox Protestant (or, for that matter, Catholic)

¹ Gerhard O. Forde, The law-gospel debate: an interpretation of its historical development (Minneapolis: Augsburg, 1969), p. 149.

² Robert C. Willis, The ethics of Karl Barth (London: E.J. Brill, 1971), pp. 191-196.

predecessors concerned the content of law. For Barth, law is identifiable neither with scriptural commandments nor with natural law, but rather as a direct experience by the believer, of God's word to him/her in the context of the ethical situation, and in the light of the nature of the Gospel itself. (How exactly one is supposed to ascertain this divine command remains unclear to most critical readers of Barth. There appear to be roles for biblical exegesis, theological reflection, and what I would describe as intuition--but to the methodological aspects of Barth's ethics I shall return later in this chapter.)

Thielicke¹ is one of many who have fundamentally questioned the close link of law with Gospel in Barth's system. What is the meaning of Calvary, he asks, if the Christian life continues to be a life of obedience to law? The Gospel, he asserts, is not about obedience or imitation, but about a historical miracle vis-à-vis law--it is not merely a philosophy of grace. The difference the Gospel makes in regard to law is surely a "qualitative" one (posing a radical alternative to a life of obedience to norms) rather than merely "quantitative" (changing the content of those norms). In effect, Thielicke is suggesting that the law-Gospel problem cannot be solved in isolation from a theological understanding of the atonement. Luther's negative attitude to all law, for example, falls into place within the context of a concept of atonement as something

¹ Helmut Thielicke, Theological ethics, vol. 1 (London: A&C Black, 1968), pp. 95-106.

achieved once for all by God in Christ on the cross--an event with so radical an effect on the believer that he/she has nothing to do but accept it and thus be freed by it of all enslavement, including all bondage to law, which exists for the sole purpose of regulating and convicting those left untouched by the atoning event. In contrast, Catholicism posits a more dynamic view of atonement, which does not end at Calvary but begins there, involving the believer in a reconciling process which includes sacramental participation in the death and resurrection of Christ, and, thereby, a drawing closer to God through a life of obedience.

It is true that in the debate between the Lutheran and Catholic doctrines of justification, the essential difference lies in the understanding of the atonement. It is also true that this difference is the essential context of the Lutheran position on law and Gospel. Thielicke is being true to the spirit of the Lutheran law-Gospel dialectic, but more radical than Luther himself, when he says that the consequence of the atonement, as a dramatic event in the relationship between God and humanity, is to liberate Christians from all law. However, the actual necessity--Luther notwithstanding--of placing the question of the continuing significance of law strictly within the context of the atonement, remains debatable. When theologians like Calvin and Barth have recognised that law or obedience have some role to play in the Christian life, they have been recognising a pragmatic need for guidance in a difficult world, rather than addressing the means by which Christians are capable of achieving peace with God. Calvin's insistence on a third use of law arose, as I have

shown, from his pessimism about the human capacity--even when under the influence of divine grace--to live a good life outside of a controlling and challenging framework of divine law. Barth, while wary of generalised norms, also feared that without obedience as a fruit of the Gospel, Christians would be swayed by "the word of man" rather than the word of God. These are pragmatic considerations, arising not so much out of a theological analysis as from the recognition of a human need for moral help. Even Paul, whose rejection of the force of law was an essential consequence of his acceptance that a radically significant event had occurred on the Cross, was not above recognising a pragmatic usefulness of law. The restrictions on eating food sacrificed to idols, for instance, while having no objective importance, should be obeyed in the heterogenous Corinthian situation for the sake of the sensitivities of the "weak ones". (1 Cor. 8:7-13; 9:19-23; 10:23-30)

The insight that seems to emerge most clearly from this whole discussion of law and Gospel is that obedience has less to do with fundamental Christian duties required for the maintenance of a relationship with God, than with the Christian's desire to respond to God by seeking and doing his will in a world that is perplexingly full of sin and pain. Obedience, then, is a free response to God's grace. But if that is the case, is "law" in fact a helpful word to use in the moral sphere of Christian life? Surely the word "law" implies something we obey because it is law--because the alternative is to incur displeasure or punishment--rather than something in terms of which we freely choose to direct our lives? If I drive at 60

kilometres an hour in an urban area because I consider it an appropriate and safe speed, I am not so much obeying the law as exercising free and responsible choice. That this happens to be the speed limit, laid down and enforceable by law, would appear to be irrelevant. If, however, I drive at that speed in fear of prosecution or out of a principled respect for legislation, I am simply obeying the law. It seems to me that when he urged the Corinthians to abstain from food considered by others to be defiled, Paul was not in fact giving scriptural sanction to a third use of law, or any use of "law" as such, but was rather saying that the loving thing to do in this instance, in view of the "weakness" of those who still were sensitive about matters of law, was to refrain from giving offence--even though in point of fact "there is nothing undefiled".

This does not, however, dispose of the fundamental question of the relationship between obedience and freedom in the Christian life. If "law" is a poor word to describe that to which Christians respond in freely choosing to seek and obey God's will, what is a better word? "Norms", perhaps? Or "commands", or "rules"? Various suggestions have been made in an attempt not merely to resolve the linguistic question but, in the process, to define clearly the whole notion of obedience in the context of Christian freedom and responsibility. I shall mention some of the most helpful suggestions.

(1) Guides to righteousness. N.H. Sørensen accepts the view of Kierkegaard, Fletcher and others that the New Commandment of John 13:34 should replace all laws as having absolute status for Christians. What of the other commandments of

Jesus? These are not laws, but have the status of a guide to the "new righteousness", advice to those who are in the kingdom: "Rightly speaking, there is no 'thou shalt'; but all is changed to a 'Thou art set free to, thou art permitted to'.¹

(2) Content of love. C.H. Dodd² also gives attention to Jesus' commands. They are not ordinances, but should be taken seriously, since they give content to love. While it is not always right or possible to "turn the other cheek", for example, this word of Jesus, and others like it, initiate ethical reflection. This is the meaning of Jeremiah 31:31-34: "I will write my law on their hearts." Jesus' precepts set up a process of ethical activity, involving the imagination, thought, conscience, and will, and issuing in action - all of which is possible for the Christian by virtue of his or her new relationship with God.

(3) Servant of love. Helmut Thielicke places emphasis on the incompleteness of the Christian state. Because of this, law has regulatory, though not normative, content:

The Law . . . is no longer the devouring wolf. Instead it helps to preserve intact the flock's connection with the shepherd who has already accepted the sheep as his own. . . . To this degree, the sustaining, nourishing and

¹N.H.Sjøe, "The three uses of the Law," in Norm and context in Christian ethics, ed. Gene H. Outka and Paul Ramsey (New York: Scribner, 1968), pp. 313-314.

²C.H.Dodd, Gospel and Law: The relation of faith and ethics in early Christianity (Cambridge, Cambridge University Press, 1951), pp. 73-81.

perfecting Law no longer has normative significance, in the sense of leading me as if it were the shepherd instead of simply the dog. It has rather a regulatory significance in that it reminds me of the way which my given obedience--to which I could never be forced by any law--may be exercised. It points me to specific areas in which the question of obedience is acute.¹

According to Thielicke, then, law's authority is unchanged, but our relationship to it is changed. It is a comforter, not a killer--"a servant of love in the political sphere"².

(4) General absolutes. Brevard Childs³ suggests that rules be seen as "general absolutes", a term he chooses in preference to "prescriptive absolutes", which is too strong, and "general guidelines", which is too weak. As "general absolutes", rules embody love, yet accuse the conscience. They reflect the ambiguity of the Christian's situation in the modern world. The Christian should live in dialogue with these "general absolutes", interpreting them to meet new situations, making use of "middle axioms" where appropriate, and attempting to resolve conflicting rules.

These and many other attempts to define the role of normative statements vary significantly in the types of status they suggest for such statements in the Christian moral life. It does, however, emerge clearly from all of

¹Thielicke, pp. 133-4.

²Ibid., p. 141.

³Brevard S. Childs, Biblical theology in crisis (Philadelphia: Westminster Press, 1970).

them that Christian freedom does not exclude but rather embraces norms, standards of conduct, guidelines for behaviour, and so forth. "General standards" may be the most expressive term. On the other hand, there must also be room for critical appraisal of all such general standards and of the amount of authority they are to possess. That appraisal must conform to the picture of which I have found elements in all the major positions on the law-Gospel dispute (from Roman Catholic orthodoxy through to Barth): the Christian is a new person, whose newness is never complete--a person who needs help in finding and heeding the call of God; a person, nevertheless, in direct and unmediated relationship with God, seeking his will in a world which frequently contrives to conceal him.

The short answer to the question I have been exploring in the first section of this chapter, then, is that both obedience and freedom are essential elements in the Christian moral life. They are not enemies: they are the ideal couple in the quest for morality. This means that certain normative statements can be of considerable help in finding solutions to moral problems, so long as they do not take the place of the free exercise of moral responsibility. A method must be found for Christian ethics which gives account of both the divine gift of freedom and the Christian response of obedience.

But first, this analysis of the role of obedience has left an essential question unanswered. How are the appropriate general standards to be identified--where are they to be found? This question will need to receive attention before the quest for a method can continue.

1.2 The sources of Christian ethical reflection

(1) Scripture

If normative statements are to be accorded the status of general, though not absolute, standards for Christian ethics, this raises a particular problem with regard to the usefulness of Scripture as a source of these standards. It is hardly unreasonable to expect that the Bible will provide at least a starting point as a source of Christian moral norms, but what, precisely, will be the usefulness of this "book of books"?

A fundamentalist like JOHN MURRAY¹, for example, recognises few problems in regard to the use of Scripture as a source of ethical law. His book sets out to show "the basic unity and continuity of the biblical ethic", and on some issues he manages to produce a somewhat artificially harmonised set of "Principles of Conduct" (which is the book's title). However, the task of extracting clear and consistent ethical norms from Scripture is not one that can be achieved without some embarrassing contortions. For instance, Murray asserts that the Bible forbids the telling of a lie--but he is forced to concede that the Scriptures allow "concealment of truth from those who have no claim on it".² He is careful to point out that Rahab the prostitute is commended in Heb. 11:31 and Jas. 2:25, not for lying to the king of Jericho but for hospitality to the

¹ John Murray, Principles of conduct (Grand Rapids, Michigan: Eerdmans, 1957).

²Ibid., p. 146.

Israelite spies. How the latter could have been achieved without lying to the king's men is not suggested.

More critical scholars find it difficult to use the Bible as a moral textbook--not only because of the theoretical problems with regard to law and normative absolutes that have been outlined above, but in consideration of the nature of the Bible itself. The Bible is not a systematic omnibus of moral guidelines. It is a collection of poetic, prophetic, cultic, legendary and historical writings produced in different times and places for varying purposes and arising out of a variety of needs. Each of these writings is geared to communicating specific theological truths concerning God and creation. Together, they constitute neither a list of moral principles nor a unified historical reference work. Rather, as JAMES BARR suggests, Scripture is a collection of classic human records of divine events. As such, the documents are capable of scientific, historical and theological error, and they are to be sought out not in order to provide ready solutions to problems, but to enrich and build up the faith of the readers, in the light of which they may be enabled to see and judge themselves and their actions. Thus, insists Barr¹, there is no such thing as a heretical interpretation of the Bible. Rather, conflicts of interpretation are possible, just as the Bible itself provides a vivid pattern of controversy.

Moreover, the Canon was finalised a long time ago, and

¹ James Barr, The Bible in the modern world (London: SCM Press, 1973).

after a compilation process that spanned centuries and a wide variety of cultural milieus. To suppose its moral statements to apply literally or directly to any of today's societies would be to ignore the fact that the moral world is a facet of social life: moral dilemmas occur to us when we attempt to relate our ideas of right and wrong, good and evil, to the situations we meet in real life. These dilemmas cannot, therefore, be solved without serious reference to real life. Simply citing a text from a prophecy or letter directed to another community in another era--however inspirational we may find that document in a religious mode--will not answer our deepest questions, but only the most superficial ones. Also, the diverse nature of the Canon, even in terms of the varying moral standpoints found therein (both in content and in emphasis and focus), prevents us from isolating one supposedly authoritative "text" and acknowledging it as the solution to a given problem.

BREVARD CHILDS, who is not one of those critical scholars who would seek to relegate the Bible to a secondary place in theology, nevertheless insists that to know God's will through Scripture is not something clear-cut, but a matter of perceiving tensions within the Canon. He proposes in a pace-setting work on biblical theology¹ that the ethicist should begin any consideration of an issue by searching the Canon for witnesses and noting the internal dynamics among them. Such a process may in some instances provide a picture of unity among the witnesses, and a clear

¹ See p. 34 above (note ³).

moral imperative. In other instances, the diversity of the witnesses will provide guidelines for moral reflection, tensions to be taken account of in such reflection, or various moral options open to the Christian.

BIRCH AND RASMUSSEN have developed the implications of Childs's Canonical approach for ethics. They suggest a functional distinction between central, consistent emphases in Scripture (such as identification with and care for the poor) and more diverse and peripheral witnesses (as on matters like sexuality). In these ways, there has been a justified backlash against scholars who sought to diminish the Bible's role in theological reflection on ethics and theology in general. "The authority of non-biblical knowledge is crucial," acknowledge Birch and Rasmussen¹, "but what distinguishes Christian from humanistic ethics is an insistence on the biblical witness as it has been handed down in the church as the primary authority establishing not the final word but the necessary framework for Christian moral deliberation."

Thus the Christian ethicist cannot ignore the Bible. Scripture remains the most important source of religious insight for Jews and Christians. It provides the church with its basic identity: without it, Christianity would be a purely individualistic exercise, and there would be nothing that could be described as the message of the church. Christian ethics, too, cannot have a distinctive identity

¹ Bruce C. Birch and Larry L. Rasmussen, Bible and ethics in the Christian life (Minneapolis: Augsburg, 1976), p. 158.

without making use of the Bible in some significant way. If the ethicist wishes to serve the religious community, due and serious cognisance has to be taken both of the values which tend to emerge from devoted study of Scripture and of the relationships (divine/human and interpersonal) which are formed under its influence--for it is in the context of those relationships that religious people make moral decisions. DENIS NINEHAM¹ (whose phenomenological approach I do not, generally, find helpful) is correct in pointing to the centrality of the concept of relationships in understanding the importance of the Bible. The Bible is read in the context of a relationship between the reader and God, and its usefulness lies above all in serving and affecting that relationship--a relationship historically, though not fully comprehensibly, achieved by Jesus Christ.

In regard to the centrality of relationships, Nineham reflects the classic contribution of C.H. DODD², who argued that since only the living God has absolute authority, such authority cannot be ceded to a completed book. The Bible has authority only insofar as it mediates the word of God, enabling the reader to be touched by God through the experience of the writers. Only secondarily will the reader then turn, though with great respect, to those writers' theological opinions--their

¹ Dennis Nineham, The use and abuse of the Bible (London: SPCK, 1978).

² C.H. Dodd, The authority of the Bible, rev. ed. (New York, Harper & Bros., 1958).

interpretations of the human experience of God. These interpretations continue to be developed within the Christian community through the power of the Spirit, who continues to lead Christians into all truth (John 16:13).

Dodd concludes his book with words which are wholly acceptable in concluding this summary of the role of the Bible in theological ethics:

If the Bible is indeed the "Word of God", it is so not as the "last word" on all religious questions, but as the "seminal word" out of which fresh apprehension of truth springs in the mind of man.¹

(2) Tradition

The Canon of Scripture, then, provides a starting point for theological reflection, in which (in Dodd's words) "fresh apprehensions" of truth will arise, through which God continues to speak to his church. This suggests the second factor which has to be recognised in the ethical process: the history of tradition. The study of Christian morality is never conducted in isolation from the whole of the Christian church throughout the world and throughout history. Therefore views which have been expressed on any moral theme--and especially those views which have been more or less consistently expressed--by theologians from ancient times to the present, must be taken seriously.

On the other hand, the way in which theology develops is a dynamic process. One who analyses a theological or moral problem in South Africa in the 1980s cannot pretend to be sitting with St Thomas Aquinas in a medieval monastery,

¹ Ibid., p. 300.

any more than with St Paul in his prison cell. The problems to be solved, the dilemmas to be resolved, here and now (wherever and whenever that may be) are necessarily different from those considered by anyone else in another time and place.

One might look briefly for example at the doctrine by which certain armed conflicts can be considered "just wars" according to the extent to which they meet certain criteria. Those criteria may (or may not) have been wholly plausible in an age when soldiers laid siege to other soldiers in castles, killing and being killed by the dozen. The same criteria could become somewhat more problematic in an age in which an anonymous person--or computer--can initiate an unstoppable process which could wipe out half the world's population. They might also be inapplicable to a guerilla war in which the citizens of a country rise up to throw off the chains laid upon them by a powerful elite. Similarly, it may have been plausible for St Thomas to speculate that the human foetus possesses a soul from the fortieth day after conception in the case of males, and the eightieth day in the case of females--and thus to rule that after those deadlines abortion amounts to murder. Today, with anatomical and genetic evidence proving that at least the physical development of males and females progresses at an almost identical rate, those conclusions have little more than curiosity value.

None of this means St Thomas's work will be totally irrelevant to the debate about violence which will be considered in Chapter 3, or that about abortion in Chapter 4. Rather, his insights can be examined respectfully and

critically, with a view to discovering whether, and what, they contribute to the ethical problem of the day.

The point is that an ethical dilemma is a dilemma only by reference to its context. In abstract terms, it is easy to say "abortions are wrong [or right]", or "it is never [or often] acceptable to rise up against the State". These things are more difficult to say--and even more difficult to hear without great pain and bitterness--when they are said in the context of relationships with real people who are faced with making choices which they find difficult or nearly impossible. Few pregnant women find it helpful to be told what other people have said over the centuries about the problem of an unwanted child. Few citizens of an oppressed nation will be interested in what the Thomists or Scotists said about the morality of rebellion. These decisions (about abortion, rebellion and other such problems) are agonising because they are made not in classrooms or pulpits but in the context of such earthy realities as pain, blood, despair, bitterness, passion, humiliation, hope, love, pride, fear and other incalculable factors which tend to make general norms impotent. The context produces the dilemma, and no ready-made solution to the dilemma is possible because, being ready-made, it will not refer to the context but rather to theoretical insights which may or may not be enlightening.

Thus, while it must be recognised that theological ethics cannot be described as Christian ethics unless those ethics are formed within the light shed by the Bible and by the theological heritage, the products of such ethics will not be helpful if they merely amount to lists of what has

been declared in former times in various places. Rather, the task is to illuminate with the light of the Gospel the darkest corners of human life, and facilitate better decisions in difficult situations by seeking to discover how that light might make rights and wrongs at least slightly easier to identify.

(3) Context

Besides Scripture and the theological tradition, then, other factors must be recognised in a description of the theological ethical process. First, the ethicist must be humble enough to recognise that his/her insights are not complete without the contributions made by scholars of other disciplines--most importantly the human sciences (sociology, psychology, social anthropology, political science, history, and others), but on some issues (for example, as I shall show later, abortion), such natural sciences as biology and medicine. A particularly close natural relationship exists, of course, with ethicists in the non-religious philosophical sphere. In conducting what Birch and Rasmussen described as a "constant dialogue with the many other sources of knowledge through which God may be disclosing himself"¹, theological ethics will have access to knowledge and insights which were not available to earlier sources.

Second, in taking the "real world" with the utmost seriousness, the uniqueness of ethical situations must be firmly recognised and taken into account. Seldom will talk of a "typical" situation be helpful--and then only on a hypothetical level. The situation at hand must be fully

¹Birch and Rasmussen, p. 150.

analysed in order to bring to light such factors as the causes of the problem (including the historical background), the values operating among the groups and individuals involved in making decisions on the matter being surveyed, the likely consequences of the various options open to these people and groups, and the various factors operating which will influence openness and resistance to change. A study which includes analysis of these factors will avoid an ethical bias towards ideology, and ensure that ethical suggestions are realistic.

(4) Subjective experience

Up to now, I have been mentioning factors which are readily accessible to conscious study and analysis (Scripture, theology, scientific dialogue, and situational analysis). It is, however, also necessary to recognise there are less conscious and unconscious factors at play in the ethicist's study. This is true whether or not the study is on the basis of the Bible or any other authority--this is a key element missed by those who would seek to posit "objective" ethics, whether based on Scriptural standards, natural law, or anything else. Unconscious presuppositions and preferences will influence the ethicist to favour certain factors and ignore others, without even realising that another scholar might disagree with the weight given to the various elements.

Such unconscious pre-critical editing will inevitably take place especially when one is speaking of such subjective and relative things as "central themes and peripheral issues" (for example, with regard to Scripture and theology), or allegedly universal or natural values or

laws. The political philosopher Vernon Van Dyke provides a useful note of warning against the easy acceptance of any human science as conveying objective truths. His comments are as relevant to theology as to political science. He attacks a "deceptive" assumption that "to be objective, one must allow the facts to speak for themselves", saying the deception relies on the metaphor used:

Whatever facts are . . . , they do not speak. Scholars do. The scholar asks the question, selects or ferrets out data that he considers relevant to it, and seeks an answer on the basis of the data. His selection or arrangement of the data may point towards or lead to an answer . . . but . . . if any speaking is done, he does it.¹

Van Dyke nevertheless rejects a despairing renunciation of any attempt at objectivity--a goal that can at least be approached by the careful use of "generally accepted" (whatever that may mean) criteria in judging data to be relevant and reliable, thoroughness in locating and developing such data and weighing the facts, and logic in arriving at conclusions.

Whether or not theological (or any other) ethics could ever make claims of objective verity based on the adoption of these sound methods, they are no doubt useful aids to self-judgement on the part of the theologian. But it is equally important to recognise and declare one's own prejudices, and one's own background, which will inevitably influence the way in which one selects, arranges, develops,

¹Vernon Van Dyke, Political Science: A philosophical analysis (Stanford, California: Stanford University Press, 1960), pp. 49-50.

and draws conclusions from the evidence. Among the most important of these unconscious influences are one's religious experience and social and cultural experience. It is in the context of such experience that values are formed, and even the way in which one perceives undisputed facts will be influenced by one's presuppositions, formed within the context of social, religious and psychological life. To the extent that the social orientation of the ethicist is recognised, and compensated for, theological ethics can be, as Villa-Vicencio¹ pleaded for it to be, a de-absolutising discipline: "an exercise in naming the gods of a people" instead of merely accepting precognitively the presuppositions of the community in which the ethical process occurs, and proceeding from that point to make proposals and draw conclusions which fit neatly into those parameters

Thus Christian ethics is neither simply a matter of Bible Study, nor confined to a supposedly dispassionate survey of, and logical assessment of, normative guidelines proposed in biblical and post-biblical literature. Rather, theological ethics involves scientific analysis of specific situations, and the application to those situations of values formed in the context of religious and social relationships and experience.

Having thus identified the task of any study in theological ethics, it is necessary at this time to ask what

¹ Charles Villa-Vicencio, "Christian social ethics as a de-absolutising discipline," Journal of Theology for Southern Africa 31 (June 1980), p. 7ff.

justified as necessary to achieve a higher end: in this case, a shorter war and thus fewer Allied casualties.

The main problem with this form of argument is that it is notoriously difficult to weigh ends against means, and to reach acceptable conclusions about one justifying the other--especially since the methods used in an effort to reach an allegedly higher goal may have unplanned consequences which could be said to defile the intended goal of the means employed. Marrin asks of Christians who lend support to a war: "Having chosen the end, have we not also to a certain extent chosen the means of attaining it? . . . To what extent may evil be done in the hope of good coming out of it?"¹ This is no easy question to answer, and in attempting to do so, I shall rely on the telling critique of moral perfectionism found in the work of Philip Wogaman².

According to Wogaman, the early Christian writings contained a significant perfectionist aspect. This can be partly ascribed to the expectation of an imminent end of time, but not all the cogent arguments for pacifism, even from that time, can be dismissed as irrelevant because of that consideration.³

In later Christian theory, moral exceptions or

¹Ibid., p. 147.

²J. Philip Wogaman, A Christian method of moral judgement (London: SCM Press, 1976).

³The veracity of the frequently alleged pristine early Christian pacifism will be examined in Chapter 3 below.

necessary evils were increasingly permitted. This was rationalised in terms of the doctrine of the Fall. For example, St Augustine regarded both war and slavery as necessary remedies for the effect of sin--at least in the last resort--even while recognising these types of activity as inconsistent with the Gospel. St Thomas Aquinas and Martin Luther and others have argued along similar lines.¹

Certain problems with this form of rationale are easily recognised, but Wogaman is concerned with a more basic question. It is possible, he asks to organise ethical thinking and action on the basis of positive presumptions only? He goes on to examine the thought of various Christian scholars who have answered: yes.² Tolstoy, for example, saw non-resistance as a positive principle which must dominate Christian behaviour, regardless of the consequences. Wogaman's response is that Tolstoy either overestimated the extent to which sin is a product of social conditions, or underestimated the extent to which the capacity to sin is an aspect of real humanity. But his more important rebuttal, I think, states that Tolstoy, by reducing Christianity to obedience to a principle, promoted a slave-ethic. Wogaman does not develop this thought, but it suggests that moral perfectionism makes human beings into automatons, asking them to ignore their sensitivity to the consequences of their actions and the complexities of their situations, in favour of reflex obedience to an absolute

¹Wogaman, pp. 117-118.

²Ibid., pp. 119-126.

moral law. This is a kind of pharisaism which bases absolute norms on Christ's Sermon on the Mount, without understanding the basic critique of legalism, and of legalism's attention to outward practice, which was the dominant theme of the collection of sayings in Matt. 5-7.¹

A second affirmative answer to the question about positive presumptions is offered by Jacques Ellul. Wogaman explains Ellul's thought on this matter as focused on the consequences of violence: though people inevitably respond violently to violence, that is always a futile response, as is every compromise with evil. As Wogaman suggests, it is difficult to refute a claim of this nature, since it appeals to an indefinite and generalised future. It cannot be proven or disproved, though I shall return to the concrete results of social violence (and to Ellul's proposals) in Chapter 3 below.

A third affirmative answer to Wogaman's question is given by John Howard Yoder. Yoder's reasoning is that since Jesus took the path of radical obedience, Christians can

¹ I shall return, in Chapter 2 below, to give detailed critical attention to the pacifist notion of the sanctity of life. Here I am concerned only with the methodological question raised by Wogaman regarding the possibility of an ethic based solely on positive presumptions. To appreciate his conclusion on this question, it is necessary to travel with him in a preliminary way as he explores the thought of Tolstoy, Ellul and Yoder--who unfortunately (because it produces a slight amount of repetition in the next chapter) happen to be thinkers who have focused on the issue of violence--rather than more general rule-deontologists like Kant.

take it on faith that adherence to the same path will be useful in fulfillment of the kingdom of God. This faith-recognition is made despite any historical evidence to the contrary, since there can be no reliable guide to Christian ethics other than Christ himself. Wogaman recognises the appeal of Yoder's argument, but proposes two major objections to moral perfectionism.¹ First, moral perfectionism understates the importance of economic, social, legal and political conditions. It says nothing is worth defending by means of negative acts. In saying this, moral perfectionism falls victim to sentimentality, failing to give adequate importance to the realities of--and intrinsic worth of--creation itself. According to Wogaman, Yoder's eschatology dominates his doctrine of creation, with the result that present problems are understated in favour of the abstract future. One might add that to the cynically-inclined, perfectionism of this "faith-recognition" type could seem to be a radical's version of the traditional pie-in-the-sky-when-you-die sop to the oppressed--though that is certainly far from Yoder's intention.

Wogaman's second rebuttal rests on the possibility that Christians may do negative things in a redemptive way. Negative action for the sake of others can be a loving responsibility (what Luther called "strange love"), so long as objectively good ends are the concern:

It is not enough simply to commend the vulnerable multitudes of human society to God's provident care in

¹Wogaman, pp. 127-130.

some future time. God expects more of us than that.¹ The broad thrust of Wogaman's argument is convincing. He recognises the strength of the perfectionist approach, and it is certainly important that Christians recognise that negative actions always pose a moral problem. But Wogaman correctly insists that in an imperfect world Christian love sometimes needs to be expressed in negative actions. These actions remain "evils", but they may be "necessary" in service of the needs of others. At the same time, he recognises that a "heavy burden of proof"² is always required when a terrible thing, such as war, is argued to be a necessary evil.

(2) A slippery slope?

Even if they were to concede that there is no theoretical objection to the idea of a necessary evil, moral perfectionists would still argue that there are certain negative acts which are not merely destructive in themselves, but can be destructive in terms of the extrinsic effect of the acts' acceptance as permissible or justifiable. This is the argument known as the "slippery slope". Those who pursue this argument, for example in respect of abortion, hold that if the killing of human foetuses is allowed, then people will gradually come to believe that homicide is acceptable outside the womb as well. An example of this form of argument is found in a cautionary note in an Anglican commission report which will

¹ Ibid., p. 130.

² Ibid.

be examined later in this thesis:

As far as society is concerned there is cause to fear that too great a relaxation of abortion laws could easily lead to a disregard of the value of human life and to a general sense that "life is cheap".¹

Another example is found in an essay on abortion by Paul Ramsey². Arguments for abortion, he argues, necessarily become arguments for infanticide when based on such things as social disadvantage, deformity, rape, or incest.

Prima facie, such an argument has some force. Particularly since the Nazi holocaust, it is not difficult to imagine a society where the routine killing of foetuses, handicapped babies and old people--and, by extension, other allegedly "socially useless" people (such as Jews, blacks, or any other ethnic or economic group)--is not regarded as "really" killing at all. Thus, the argument continues, it is necessary to place a high value on life itself, in the womb as much as elsewhere, insisting that it be socially unacceptable to deprive a person of life (except, some would say, under clearly defined and extreme circumstances where a choice must be made between one life and one or more other lives). If society fails to do this, the argument concludes, it will find itself on a slippery slope which leads inevitably to moral anarchy and rampant disregard for life itself.

¹Report of Episcopal Synod Commission on Abortion
(Johannesburg: Church of the Province of Southern Africa, 1980), p. 34.

²John T. Noonan, ed., The morality of abortion
(Cambridge, Massachusetts: Harvard University Press, 1970), chap. 2, sec. 5.

While the argument of the slippery slope poses as a salutary warning against moral anarchy, it contains a logical fallacy which could imply moral tyranny. Morality always draws lines of distinction, and always allows for exceptions. Indeed, the fundamental assumption of all morality is that human beings are capable of making moral distinctions between different types of situation--that human beings are able to compartmentalise ideas. This is a fact of even average human intelligence. For example, there is no evidence to show that soldiers, who as a matter of professional necessity believe it is right to kill enemy soldiers in wartime, thereafter behave as if they have a right to kill at their own convenience in peacetime. Without even thinking about it, soldiers (and everyone else) make clear moral distinctions between different kinds of killing. After centuries of warfare, no slippery slope is evident. In the same way, there is no evidence to suggest that women who have had or considered abortions perceive the line between abortion and infanticide as arbitrary and unimportant.

If there were a slippery slope, humankind would already be found somewhere on it, engaged in its perilous descent. Since time immemorial, socially acceptable killing has existed--in self-defence, in war, in capital punishment--and the list of these forms of justified homicide has not lengthened, as the slippery-slope argument would suggest it should have. Indeed, it would appear that as civilisation has developed the number of acceptable forms of homicide has decreased. It was once widely accepted that revenge and wounded pride were ample reasons for homicide: now no

longer. Once they hanged petty thieves in England: now they hand no one. The slope appears to be neither steep nor slippery.

The philosopher Marvin Kohl has shown that the idea of killing is not "contagious" as some would suggest--that is, the exposure of a person, group or society to actual killing does not "universalise and thereby extend" the phenomenon. Rather, "there is overwhelming evidence that human beings compartmentalise their ideas, and it is only when the normal process of compartmentalisation breaks down that one encounters difficulties". Kohl admits that human beings make mistakes in the process of generalisation or compartmentalisation, but there are important constraints on the process, including the concept of "same kind or same class of objects".¹ For example, the one who crushes an insect, believing this to be acceptable, does not conclude that he or she has the right to kill human beings--because an insect is not a human being. Likewise, the Allied soldier taught to kill German soldiers did not conclude it was permissible to kill all Germans at all times ("though of all mistakes this is the most likely")--still less that it was permissible to kill anyone with whom he/she one had an argument. The lesson "I may kill" had been learnt with regard only to the one kind of object of killing: the enemy soldier. Though Kohl avoids more modern examples, his point

¹ Marvin Kohl, The morality of killing: Sanctity of life, abortion, and euthanasia (London: Peter Owen, 1974), p. 49.

might be well demonstrated by reference to wartime massacres such as that at My Lai in the Vietnam war. Under the harsh conditions of a vicious and disorienting jungle struggle, a party of American soldiers made what we might categorise as a terrible mistake in generalising: they extended the class "enemy" to include women and children who might have harboured or assisted Viet Cong forces, or who might do so in the future. In condemning the massacre with horror, the American public (including, it appears, many who had no difficulty justifying the war itself, involving as it did the killing of large numbers of enemy soldiers) did not make that "mistake" of over-generalisation. The widespread acceptance of killing soldiers in wartime did not place the society on a "slippery slope" leading even as far as the acceptability of killing civilians who might have aided or might in future aid those soldiers. Still less did it or does it lead to the social acceptability of killing one's neighbour in a garden-fence boundary dispute, or one's wife when one falls in love with a younger woman.

It is possible, therefore, for human beings to think in moral compartments. Neither with regard to revolutionary violence (in which the class of "objects" might be as broad as "members of the oppressor class" or as narrow as "collaborators of the system") nor in the case of abortion (where the killing is confined to objects in the class "foetuses") is there a real threat of the breakdown of the general moral prohibition against homicide, at least not

because of any alleged slippery slope.¹ It may be that there are sound moral reasons why homicide is not justifiable as a means of revolution and why abortion is never justifiable, but those reasons, if they exist, will emerge from an examination of the merits of those particular issues, rather than out of fear for what the so-called "logical consequences" of one or another conclusion might be in respect of what people feel about killing in general.

Moral perfectionism, then, presents no insuperable obstacles to the task of considering possible limits to the "right to life" of foetuses, or of tyrants, or of others defined as potential objects of justifiable homicide. But how can such a consideration be approached? This study has now reached a stage where proposals can be made concerning a methodology for deciding about homicide.

1.4 Methodological proposals

H.E. Tödt² has suggested that an ideal schema for making ethical judgements should include:

- (1) definition of the problem;
- (2) analysis of the situation;
- (3) identification of the behavioural problem;

¹There are other constraints on generalisation, apart from the class of object. One such additional constraint is the set of circumstances under which an act is performed. For example, what is permissible in wartime may not be permissible in peacetime.

²He Tödt, "Towards a theory of making ethical judgements," Journal of Religious Ethics 6 (1978): 108-120.

- (4) identification and testing of the norms;
- (5) making the judgement; and
- (6) reconsideration ("retrospective adequacy control").

This typology provides a useful "check-list" of the elements which need to be present in an ethical methodology. Indeed, I have already committed myself to a framework for this study which embraces at least the first five elements--and the sixth does not apply to a completed ethical analysis (although the continuing reconsideration of judgements in the light of subsequent experience is certainly an essential dimension of ethics). The first three elements, being contextual, will be concentrated in Part 2 of this thesis, and the fifth, the making of judgements, is the business of the concluding chapter. A primary task is the identification and qualification of what I call general standards and what Tödt calls norms. That task will be commenced in Chapter 2, and the standards will be tested contextually in the remainder of the thesis. However, to list the methodological elements is only a first step: my task in the remainder of the present chapter is to try to fit them together into a method that somehow gives account of the problematic dialectic of obedience and freedom in Christian morality.

I suggest that a helpful indicator of the next step is provided by Arthur Dyck. He argues from the basis of gestalt psychology that in a certain moral situation a clear gap in the gestalt (totality or wholeness) of the situation may be perceived. He cites Wertheimer's proposition that an innocent person on trial, or a hungry child, provide

examples of the perception of a gap in the totality. In order to complete the whole, it is absolutely clear that acquittal, in the first case, and food, in the second, are needed. In this type of instance, moral requiredness takes the form of a "demand not to create a gap in what is seen as a complete harmonious whole"--or to fill the gap if one exists. From this view, "what is fitting is right or good; what is unfitting is wrong or bad."¹ Some situations, of course, are more difficult to judge, but the terms of totality and requiredness will always indicate that there is a wrong way and a right way to assess the situation. However, certain conditions are necessary for correct perception. Here Dyck draws on work done by Wertheimer and Asch to call attention to various factors which should be eliminated if the gap in the gestalt is to be identified, and thus the manner to fill it found. Factors preventing correct perception include egocentrism, self-interest and ambition; fear, need and other passions; lack of knowledge; and restricted imagination or blunted sensitivity.² This leads Dyck to discuss Firth's "ideal observer" theory, which would translate an ethical statement, "X is right", to mean that X would be approved by an ideal observer who is dispassionate, disinterested, omniscient (aware of all the relevant facts), omnipercipient (possessing all necessary

¹ Arthur J. Dyck, "Moral requiredness: Bridging the gap between 'ought' and 'is'--part II," Journal of Religious Ethics 9 (1981): 131-150.

² Ibid., p. 134.

imagination and sensitivity) and otherwise normal (!). Dyck modifies this proposal simply by substituting for the emotivist term involved--"approval"--the notion of an experienced "awareness" of what is required (or fitting) in the situation.

Dyck's method may be recognised as something that actually happens in some situations. But they tend to be situations where the morally "required" or "fitting" action is relatively easy to identify. Whether or not the method is directly applicable to more complex questions--such as those confronted in the "grey areas" of homicide ethics--is questionable. It is a fairly simple matter to see a hungry child and say "bread is missing", and to be led by that awareness to an ethical imperative of providing food to the hungry or sharing one's wealth (if one has wealth) with the needy. But another observer (and who is to say that she or he would be any less "ideal") might with equal validity look at hungry children and say "justice is missing", and the ethical imperative of providing justice involves difficult questions (such as, in some situations, the matter of revolutionary violence) that cannot easily be answered by reference to an "awareness" of a gap in the gestalt.

However, by pointing to what may be done--indeed, I would argue, to what IS actually done, even if only subconsciously--where moral fittingness is easy to discern, Dyck steers us towards an essential factor which, if it is present in easy situations, must be present all the more in hard ones. It is the intuitive factor in human awareness which is primarily responsible for the perception of gaps in the totality and of what is morally fitting. Moreover, if

it is true that freedom as well as obedience have roles to play in Christian morality, the recognition of intuition could solve the methodological problem of finding a link between the two. This factor must therefore be taken into account in the construction of an ethical method. In fact, I shall argue in what follows that the intuitive factor is already present in most contemporary Protestant ethical models. This does not mean, of course, that such theorists as Barth, Fletcher, Yoder and the other giants in the field whom I shall cite have a great deal in common in terms of the way in which they use or understand (or fail to understand) intuition. On the contrary, there are vital and irreconcilable differences among their systems. Nevertheless, intuition is present in them--whether its presence is explicit or implicit, whether or not its presence is apparent at first reading, and whether or not the creators and users of these models recognise that it is intuition at all!

Ethical intuition may be defined as a non-rational feeling or sensation that something is right or wrong.¹ In the remainder of this chapter, I shall attempt to show that:

(1) Social, theological and other rational analysis or reflection is only one partner in many of the modern Protestant ethical systems. The other partner is INTUITION.

(2) The presence of intuition in morality does not

¹ Richard B. Brandt, Ethical theory: The problems of normative and critical ethics (Englewood Cliffs, New Jersey: Prentice-Hall, 1959), pp. 183-189.

necessarily lead those who recognise its presence to commit the logical fallacies associated with the philosophical theory of INTUITIONISM--but the critique of that theory provides certain important cautions for theological ethics.

(3) By adapting the proposals of Philip Wogaman, a METHODOLOGY can be developed which gives account of both intuition and rationality, and thus acknowledges the roles of both obedience and freedom in Christian morality.

(1) Intuition in ethics

Awareness of intuition's important role in Protestant ethics is nothing new! I shall give examples in this section of how essentially intuitive elements have been isolated in the works of the great theologians of this century!

Intuition plays an important, though implicit, role in the work of one of the formative minds in Protestant theology in this century. KARL BARTH's approach to ethics is an extension of his "evangelical" dogmatics. That is, all theology and all morality must begin from the basis of what God reveals and how he acts in Jesus Christ. Only from the Gospel can principles about God, creation and human beings be deduced, and these principles include ethical principles. However, God refuses to be tied to principles--while truths can be deduced from the evangelical basis, God still lives, reveals himself, and acts in human history, and therefore human deductions should not be considered so absolute as to tie down the awareness of the one reality which is really absolute, that is, God himself. Whatever principles or general truths may be deduced, therefore, are subject to the

absolute authority of the divine word, and this word will always have the possibility of contradicting general principles in the Grenzfall, the borderline case where people are presented with moral dilemmas under complicated and unique circumstances. In such an instance, the general rules and all other normal existence are interrupted by extreme conditions, and the "divine command" must be discerned and obeyed.

It is in the Grenzfall that intuition can be recognised as having an important role in Barth's ethics. Certainly Barth does not use the word "intuition" (he would be horrified by it). As Williams¹ has noted, Barth recognises the need for general (rational) principles or (again, rational) deductions (from the Gospel) in ethics, and, even in the Grenzfall, there is a decidedly rational dimension in the manner of discerning the "word of God". This discernment is, in part, a process of interpreting past Christian experience, being accountable in the present, and agonising over the future, including the various options and their various consequences. It is a responsible decision which must be open to the scrutiny of others in the community, and made in total humility. On the other hand, there is another element in this discernment that is not rational but rather intuitive--a "dimension of personal address by God . . . [a] mystical aspect of being attuned to

¹ Ernest Claude Williams, "A critical appraisal of the Grenzfall in Karl Barth's ethics" (M.Th. dissertation, University of South Africa, 1981), pp. 116-122.

God," as Williams aptly describes it¹.

One could criticise this conception rather severely. Yoder² notes that Barth's argument begins with an appeal to God's sovereignty, but ultimately amounts to an individual's decision, leaving as much to the human mind as would the reliance on rules. Yoder may even be right in suggesting that the Grenzfall is merely Barth's label for situations in which he feels moved to make a choice which runs against his own principles³--which makes the "divine command" a "resounding phrase" for the goal of human ethical reflection, rather than an aid to it.⁴ The concept of the Grenzfall and the "word of God" are probably the vaguest points in Barth's theological system, and whatever he may have intended by them, the conclusion is inescapable that there is a partnership of rational and intuitive elements in his method of discerning moral requiredness.

Similarly, in investigating the method of another great mind of this century, DIETRICH BONHOEFFER, Bennett⁵ has demonstrated that a dialectic of general assertions about

¹Ibid., p. 114.

²John Howard Yoder, Karl Barth and the problem of war (Nashville: Abingdon Press, 1970), pp. 70-72.

³Ibid., p. 73.

⁴Ibid., p. 78.

⁵John C. Bennett, Storm over ethics (Philadelphia: United Church Press, 1967), pp. 7-8.

mandates, rights, and life-ethics, on the one hand, and the contextual awareness of ethics as not "what is good once and for all, but the way in which Christ takes form for us among us here and now", on the other. In short, this amounts to a partnership between the rational and intuitive modes in Bonhoeffer's system, very similar both in form and content to his contemporary, Barth.

The same partnership appears--but now heavily weighted in favour of intuition--in the radically different system of "situation ethics" pioneered in Christian circles by JOSEPH FLETCHER.¹ Fletcher's act-agapism acknowledges no rules, and--despite his own protestations to the contrary--few principles, except that agape must be the deciding force behind moral decisions. Ends justify the means, and love discerns the desirable end, apparently simply intuitively. Once again, the partnership of rational analysis (of the consequences of actions and the dimensions of situations) and intuitive knowledge (involving the direction in which self-giving love must turn--for example, in the case of abortion, whether towards the foetus or the mother) is quite clear.

If one were to construct a spectrum of great modern theologians' systems concerning rationality and intuition, one might place Fletcher on the extreme left, giving supreme weight to intuition, and Barth and Bonhoeffer somewhere in the middle. On the extreme right would be the voice of JOHN

¹Joseph Fletcher, Situation ethics (Philadelphia: Westminster Press, 1970).

HOWARD YODER.¹ Starting from a basis which is totally different from the various "mainstreams" of modern ethics, Yoder holds that New Testament ethics are of direct relevance to modern dilemmas, though not in a biblicist-normative way. For him, the cross represents a social ethic, spelled out for various situations by Jesus himself and by Paul after him. The ethic is one of "radical submission": forgiveness rather than hostility, servanthood rather than control, and so on. There are certain things which he concludes to be totally wrong in the light of this ethic, such as killing and power-seeking. But what is the content of submission in complicated moral dilemmas? To discern the direction to be taken by radical submission in a concrete situation, once again, for all his emphasis on a concrete and available New Testament social ethic, the disciple of Yoder, too, will have to rely on intuition.

The situationist PAUL LEHMANN proposes that ethical activity is recognised as such by the fact that it "bears the marks of God's transformation of the world in accordance with his purposes, of the world's resistance to what God is doing, and of God's ultimate overcoming of the world"². With God shaping the human condition, in dynamic situations, there can never be any action that is "right". Rather, acts are "potentially instrumental", relying on the hope that

¹ John Howard Yoder, The politics of Jesus (Grand Rapids, Michigan: Eerdmans, 1972).

² Paul L. Lehmann, Ethics in a Christian context (New York: Harper & Row, 1963), p. 152.

that they serve God's purpose¹. To act ethically, then, requires a faith that is able to read the signs of the times, and to recognise God's will. This intuitional reliance on faith and hope is somewhat, but far from completely, offset by Lehmann's emphasis on *koinonia*, the Christian community, as the context for grace and wisdom. Dialogue with fellow Christians becomes a key step in ethical reflection. But all Christian fellowships know differences of opinion, and the partnership of intuition and rationality seems strongly weighted in favour of the former.

JOHN BENNETT questions the emphasis placed by contextualists such as Lehmann and Bonhoeffer on the question "what is God doing?", since an easy identification of God's action with any particular form of human action involves the risk of either radicalism or authoritarianism for their own sake². Instead, he seeks to spell out what Christians can bring to the ethical situation, in terms of general criteria (such as the need for order and the need for freedom) and more specific objectives (such as overcoming segregation and preventing nuclear war). Yet he recognises too that the facts and options of any ethical situation are unique, and that in some situations where objectives and axioms may conflict, there has to be a certain amount of "playing by ear" (for example, in the conflict between preventing nuclear war and deterring

¹ Ibid., p. 144.

² Bennett, p. 9.

aggression). In these situations, one must "hope that the decision makers never abandon deep concern for either objective"¹. Thus while the role of intuition in Bennett's framework may be more limited than in those of other contextualists, he, too, clearly recognises a need for flexibility. What, after all, does "playing by ear" mean if not a certain reliance on intuition?

Finally, the partnership of rationality and intuition unashamedly pervades the system of IAN T. RAMSEY, a Christian ethicist with a strong philosophical bent. He holds that situations are composed of facts and values, necessitating scientific analysis to clarify the facts, whereas value claims must be intuited². When analysis and intuition come together, there is a "disclosure" experience, "the penny drops", situational understanding becomes something more than spatio-temporal, and the facts "come alive", claiming and demanding a response.³ It is not entirely clear what Ramsey means by the "disclosure" of an "odd discernment", but it seems to be a surprising awareness of some knowledge, without being aware of why one knows this thing. That certainly amounts to an intuitional complement to rational analysis.

¹ Ibid., p. 20.

² Ian T. Ramsey, Christian empiricism (London: Sheldon Press, 1974), pp. 50-54.

³ Idem, Religious language: An empirical placing of theological phrases (New York: Macmillan, 1957), p. 26.

This brief survey of some contemporary methods of doing Christian ethics has been far from exhaustive. Some important names have, inevitably, been neglected: names like Helmut Thielicke, Rudolf Bultmann, Paul Tillich, Jürgen Moltmann, Emil Brunner, Reinhold Niebuhr, H. Richard Niebuhr, and others. But the sole purpose of the summary I have provided has been to show how wide-ranging are the theories which witness to a partnership of the rational and the intuitive in Christian ethics.

It is my view that the partnership cannot in fact be avoided--at least not unless Protestant ethics returns to the false security offered by casuistic legalism. Though sometimes the certainties of casuistry seem whimsically attractive, they offer only a false security, because casuistry rests upon at least three false assumptions. First, there is the assumption that there is enough similarity between ethical problems of a particular type to allow the formulation of rules of behaviour which will be applicable to all problems of this type. This assumption is false because people are unique, and moral dilemmas inevitably arise when unique people find themselves confronted by situations which are unprecedented simply because they involve those unique people and others who are equally unique. To categorise human situations in an inflexible way necessarily involves categorising people, and thus denying their individuality, their complexity, and their unique responses and responsibilities. The unique individuality of human beings is a necessary part of what it means to say that people have the image of God--and the unpredictability of people (as of God) is a necessary

consequence.

A second assumption behind casuistry is that actions have value in and of themselves. But the moral critique which can be said without exaggeration to pervade the teachings of Jesus in the Gospels is that actions are given value at least partly by motives, attitudes and consequences concerning people's needs. At least that much can be said to be self-evident from Jesus' attacks on pharisaic legalism. From this perspective verbal abuse is as serious a sin as murder (Matt. 5:21-22); sacrificial generosity is as essential as obedience to the commandments (Mark 10:17); a widow's mite is more precious than wealthy people's large sums (Mark 12:41-44); it is superficial judgement which condemns the healing of a person in contravention of sabbath law (John 7:23-24), and so on.

The third assumption behind casuistry is that in any given situation ethical choices will be clear, and options can be classified (either at the time or afterwards) as clearly right or wrong. In fact, there are many actions which cannot be so classified, even with the benefit of hindsight. For example, was it "right" or "wrong" to use an atom bomb to bring the Second World War to a swift end, thus saving perhaps as many lives as may have been lost? This question is still debated today by people of goodwill. Whatever one's opinion, the issue is not a simple one. The same is true of a great many moral decisions--and as it happens all moral decisions have to be made without the clearer vision of hindsight. One has to recognise that serious problems of morality tend to involve not black-and-white truths but (in Fletcher's now-classic

phrase) the "penumbra of conscience".

But apart from these false assumptions behind the purportedly rational certainties offered by casuistry, there is a more basic reason for accepting the partnership of rationality and intuition in theological ethics. As Friedrich Schleiermacher has shown, religion has its roots in a consciousness of dependence, and a consequent experience of obligation. To experience oneself as dependent on a transcendent other is to experience a transcendent claim on oneself--and this, to Schleiermacher, is the essence of religion. Similarly, the experience of a prior claim (as Crossley puts it¹) is the essence of all religion, which is why Christian ethics must be grounded in theology. Therefore Schleiermacher rightly emphasises the relation between feeling and thought. If ethical reflection is rooted in the realm of feeling (dependence and claim), how can it attempt to isolate itself from intuition? Indeed, intuition is the necessary "leap beyond our thinking of particulars in an attempt to know things in their wholeness. It reaches in the same direction as thought, and then completes thought's quest for 'complete' vision when thought reaches its limits."² Put differently, a sense of commitment is a necessary ingredient in making moral decisions. Prior to rational reflection, there is a complex

¹ John P. Crossley, Jr., "Theological ethics and the naturalistic fallacy," Journal of Religious Ethics 6 (1978): 121-134.

² As quoted by John Macquarrie, "Schleiermacher reconsidered," Expository Times 80 (1969): 198.

of feelings, values and other largely intuitive factors without which there would be no commitment to ethical action and thus no decision to be made at all.

Macquarrie has pointed out that a missing element in Schleiermacher's work is any notion of thought having a critical function with regard to feeling or intuition.¹ Is there not a sense in which reflection on actual experience must support--or falsify--what one believes? Yoder asks of Barth's (intuitional) divine command: "How do we test the spirits?"--that is, how do we know that the word supposedly of God is truly of him?² Barth provides no answer, and, it seems safe to say that for Barth there are no precautions at all.

Nor are hard-and-fast guarantees possible, short of casuistry. But to recognise that there is a partnership of rationality and intuition in theological ethics is not to say that intuition must simply be accepted uncritically. Yoder's question about testing the spirits is a serious and valid one, and deserves an answer (even if Yoder himself, as I have shown, does not avoid the problem in his own proposals).

The role of intuition in morality has been extensively explored within the realm of the philosophy of ethics, and in order to clarify the nature of the partnership being identified here, it is helpful to examine the debates that have taken place within that discipline.

¹Ibid., p. 199.

²Yoder, Barth, p. 48.

(2) Intuitionism: a philosophical critique

Because of the complexity of the meta-ethical field, it is important to recognise at the outset of this section of discussion that the intuition debate cannot be treated exhaustively here. The meta-ethical debate is a many-sided one, with the various protagonists often, though not without difficulty, grouped into three camps: naturalists, non-naturalists--among whom the intuitionists represent the most influential party--and non-cognitivists. Even within the group loosely called intuitionists, the use of the term, intuition, is far from unambiguous.¹

The NATURALIST approach, which was pioneered by Hobbes, is to identify moral terms (such as "good", "right", "ought" and so on) with non-moral or empirical terms (such as "that which satisfies desire" or "that which ensures survival"). Ethical statements thus become empirically verifiable.² NON-NATURALISM was a reaction against naturalism.

Non-naturalism holds that ethical concepts cannot be defined in terms of natural or empirical concepts. Nevertheless "good" and "ought" and so on are, indeed, properties, and some things and actions have these properties--but they are

¹ For example, four distinct usages of intuition are listed by T.A. Roberts, "Bishop Kirk and modern ethical intuitionism," Church Quarterly Review 167 (1966): 30-33; but the distinctions are unnecessary for the purposes of the present study.

² Encyclopedia of philosophy, 1967 ed., s.v. "Ethics, problems of," by Kai Nielsen; see also the article s.v. "Ethics, history of," by Raziel Abelson and Kai Nielsen.

non-natural, non-empirical and indefinable properties. The question then becomes: "If an ethical property is not empirical, how can it be recognised?" In answering this question, non-naturalists are divided into two groups. Some pursue the RATIONAL INSIGHT theory, which says, in effect, that "we just know rationally what is right". Most, however, are INTUITIONISTS, holding that "we sense, or feel, what is right".¹ According to intuitionists:

. . . Our basic principles and value judgements are intuitive or self-evident, and thus do not need to be justified by any kind of argument, logical or psychological, since they are self-justifying or, in Descartes's words, "clearly and distinctly true".²

The third broad grouping of meta-ethical approaches is NON-COGNITIVISM. Together with intuitionists, non-cognitivists deny that ethical concepts are verifiable, definable or identifiable with natural or empirical facts. But non-cognitivists also deny intuitionism's tenet that "right", "good" and so on express properties actually possessed by things or actions. Rather, these concepts are expressions of attitude or intention, or imperatives of perceived duty (the precise nature of ethical concepts varies among non-cognitivist theories, but they are always by nature subjective utterances).³

¹ Brandt, pp. 183-189.

² William K. Frankena, Ethics, 2nd ed. (Englewood Cliffs: Prentice-Hall, 1973), p. 102.

³ Encyclopedia of philosophy, s.v. "Ethics, problems of".

The intuitionist view can thus be identified most clearly by contrasting it to the other two major schools. Unlike non-cognitivists, intuitionists hold that ethical statements refer to actual properties which actions and things can have. But unlike naturalists, intuitionists declare that these properties are indefinable and non-empirical, and thus ethical statements are unverifiable. The most prominent intuitionist, G.E. Moore, expresses it this way: primary ethical terms are "simple" (that is, indefinable), and therefore only by means of intuition can one attain knowledge of the properties these terms describe, and of which things or acts possess them. In this, ethical terms are not really unique, according to Moore. One can say with certainty that a table is "yellow" without being able to define yellowness, or prove the veracity of the statement to someone who doubts the yellowness of the table. If someone is colour-blind, that person may not recognise the table as being yellow, and this may lead to an argument over its alleged yellowness--but "yellow" remains a description of an actual, objective property. In the same way, one "simply" knows that a certain act is "good". If arguments arise over whether or not it is good, that is not because of any lack of objectivity of the term "good", but because one or both parties to the argument has an "incorrect intuition" about whether that particular act possesses the property of goodness.¹ It follows, of course, that arguments over ethical presumptions can never

¹ Roberts, pp. 34-35; Encyclopedia of Philosophy, s.v. "Ethics, history of".

be settled, because there is no way of knowing which intuition is correct--if any!

The theoretical basis of intuitionism lies perhaps most fundamentally in the rejection of what Moore called a "naturalistic fallacy": the tendency in naturalism to identify moral goodness with a natural (observable) property, and then equate the two in a definition. According to Moore, this is a fallacy because moral goodness is a "simple", unanalysable quality, whereas the qualities which naturalists identify with moral goodness are "relational" (such as conduciveness to pleasure, capacity to arouse interest, and so on). The logical fallacy lies in identifying a simple quality with a relational quality, which Moore says is logically impossible. "Yellow" is as simple as "good", and "yellow" cannot be defined in relational terms. It must simply be accepted as a given reality, and the same is true of "good". But this characterisation of moral goodness as "simple" is an assumption by Moore. It, too, cannot be proven--perhaps it, too rests upon an intuition! Certainly it does not rest solely on the so-called "open-question argument". This argument shows that whatever naturalistic identification is made for moral goodness, the question can always be asked whether the thing identified is, in fact, "good", and the question will not be tautologous. (For example, if a naturalist says the preservation of life is good, the question can sensibly be asked "is the preservation of life always good?") This does not prove, however, that ethical qualities are "simple"--only, perhaps, that they are too

complex to be identified with one particular thing.¹ Moreover, what on earth (or in heaven) is a "non-natural property"? Yellowness is very different from goodness precisely because yellowness is empirically demonstrable (by means of the physics of light). The intuitionists have failed to provide a really satisfactory answer to that question, merely insisting that the truth is self-evident.

Yet it is clearly not self-evident--as witness the considerable amount of argument among philosophers as to whether or not there is such a thing as intrinsic goodness, and if so, what it is. Primarily because the intuitionists have failed to provide a comprehensible and plausible description of what they mean by a non-natural quality, intuitionism is not a popular solution to the meta-ethical problem today. For practical purposes, too, pure intuitionism leads inevitably to a sense of uselessness in ethical argument, since there is no way to test whether a concept of, or statement about, moral goodness is a correct or incorrect intuition. In denying that ethical statements are evaluative (as opposed to descriptive), intuitionists effectively remove themselves from any possibility of rational debate about normative statements.

For all these reasons, I suggest that intuitionism's appeal to transcendent or objective revelation of what is good or right should be rejected. However, this does not necessarily mean accepting non-cognitivism's resignation to ethical statements as merely subjective statements of

¹ Philip Blair Rice, On the knowledge of good and evil (Westport, Connecticut: Greenwood Press, 1975), pp. 42-58.

attitude. Frankena¹ has appealed for a sensible theory of meta-ethics which recognises that ethical language is a language of approvals and disapprovals, in which we may "express our sentiments . . . and put them out into the public arena for rational scrutiny and discussion." Left there, his statement would seem to be a form of emotivist non-cognitivism, but if "rational scrutiny and discussion" includes certain naturalistic elements--that is, certain identifiable, observable things which are argued to be generally desirable or undesirable consequences of acts--then the way seems to be open towards an ethical method which would meet the needs that have been recognised so far. This would have to be a teleological ethic which incorporates intuitions or non-cognitive feelings (there is not a significant difference between the two, once the idea of objective moral properties is rejected). This does not overcome the open-question problem, but to say something is generally observable as a desirable end is not to say it is always so. Thus, for example, one might say that the preservation of life is generally a desirable consequence of actions. This does not provoke the open-question rebuttal, as it concedes that the "generally" desired end is not absolutely identifiable with moral goodness. It does rely on a pre-rational assumption about the preservation of life being at least a generally good thing, but few if any would argue with that.

This excursus into meta-ethics was undertaken out of a desire to explore the theoretical plausibility of a method

¹Frankena, p. 108.

of ethics which gives account of the partnership between rationality and intuition in moral reflection. It would now appear that the quest for an ethical method is a matter of setting out a methodology which allows for general presumptions to be made, but also for teleological exceptions to the rule. That is no small challenge: if, as I have argued, rationally accessible concepts are to have a critical role vis-à-vis intuitional evaluations, what would such a method look like?

(3) Towards a methodological solution

Philip Wogaman has outlined a method which, I believe, exactly meets the need just described. Intuition, according to Wogaman, will always play some kind of role in moral judgements--partly because of the general need for speed in making these judgements, and partly because of the unique complexity involved in every moral situation. But Wogaman recognises the need for rational reflection to be critical of intuitional leanings, both before and after the leap of faith which is involved in every difficult moral decision and action:

Before, [rational reflection] can prepare us for more faithful, loving, dependable intuitions, so that when we move intuitively it will be instinctively in the right direction. Afterwards, it can help us analyse our intuitions, assessing their inadequacy, correcting our errors.¹

Wogaman's method thus aims to provide for rational criticism of, and even rational formation of, intuitions. He proposes the use of methodological presumptions, that is, biases

¹Wogaman, p. 20.

against which other alternatives "bear the burden of proof".¹ Wogaman believes everyone operates on the basis of presumptions of this kind--even if unconsciously. Many of one's presumptions are instinctive, instilled in early life. Others are the products of reflection on experience. The concept of a "burden of proof" is, of course, a forensic one, but for Wogaman it has a connotation of rule-utilitarianism: the moral presumption must prevail unless it can be shown that greater good will result from the exceptional stance than from following the direction indicated by the presumption. Wogaman's notion of "presumptions" is, however, distinct from the notion of "rules". A presumption is more like a "rule-of-thumb", which stands until it is clearly outweighed by utilitarian proofs.

As a method of Christian ethics, Wogaman's proposal allows for ethical presumptions to be derived from theological reflection (in dialogue with other human sciences), without being inflexible in those uniquely complex situations which produce moral dilemmas--and moral intuitions which may be right or wrong. The difference between this and looser concepts like Barth's Grenzfall has to be clearly understood. It is true that Barth's general deductions from the Gospel are the theoretical equivalent of Wogaman's presumptions. But whereas Barth consciously decides to put his deductions aside when he seeks the divine command in the Grenzfall, Wogaman's presumptions stand as valid until they are proven invalid by utilitarian

¹Ibid., p. 40.

considerations in the specific context.

Since it appears to meet the need I have described, I shall adopt--and thereby test--Wogaman's method in this study. At this methodological stage, there is no need to be unduly concerned with the content of Wogaman's presumptions. It will, of course, become necessary to specify the presumptions which are appropriate to a study specifically of the ethics of homicide, and a beginning will be made on that task in Chapter 2. Nevertheless, a brief survey of Wogaman's main presumptions is appropriate here, in order to give flesh to the theory which will so centrally affect the rest of this thesis.

Wogaman suggests four key positive presumptions for all Christian ethics. These are: that created existence is good, that individual life has a high value, that humankind is called to unity, and that persons are equal before God. Therefore burdens of proof weigh against actions which corrupt the natural order, against all homicide, against exploitation and discrimination among nations and races, and against structural inequality.¹

There are also negative presumptions, which are derived from the limitations of the human condition. Human finitude, and human sinfulness, are presumed. The effect of these two negative presumptions is to call into question any social policy which depends on the assumption that people will always do the right thing, and to suggest a need for two compensatory presumptions. The first calls for a

¹Ibid., pp. 73-104.

burden of proof against self-interest. It presumes that people are selfish and tend to their own gratification. The second is a presumption for the underdog: it presumes that Christian moral action will tend to empower the weak.¹

Finally, Wogaman suggests polar presumptions, where two opposite values are both necessary, and a burden of proof operates against any policy which substantially neglects either. Both the individual and the social nature of humanity, both freedom and responsibility, both conservation and innovation, and so forth, should have a place in moral reflection.²

In this study, I shall identify certain presumptions that appear to apply especially to the ethics of homicide. Against these will be weighed any utilitarian arguments for homicide in the "grey areas"--the burden of proof operating for the presumptions in all instances. Before these presumptions can be identified and applied to concrete issues, however, it is necessary to examine the Sanctity-of-Life Principle. This is a normative statement that seeks to radically simplify the ethics of homicide by providing a clear-cut and well-established standard of behaviour. If valid, this frequently-cited norm would largely avoid the need to struggle with presumptions and greater goods. Unfortunately, I shall show in the following chapter that the Principle is fatally flawed.

¹Ibid., pp. 106-115.

²Ibid., pp. 132-153. Wogaman's method for moral judgement also involves presumptions about moral authority, ideological presumptions, and social strategic considerations, but these are not especially relevant here.

CHAPTER 2

THE SANCTITY-OF-LIFE PRINCIPLE

2.1 Life: the most basic human right

"Everyone has the right to life, liberty and the security of person," states the Universal Declaration of Human Rights.¹ It is no coincidence that the right to life is the first specific right mentioned in this document and others similar to it. The right to life is widely considered to be the most basic of all human rights--so basic that other rights pale beside it. "The right to life" has become a catchword for the anti-abortion movement, extending the idea of this basic right to pre-natal humanity. War, capital punishment, euthanasia have all been condemned from time to time as offences against the right to life enjoyed by everyone. Clearly, of course, life is the most basic of rights in the most literal sense: no one has rights if he or she is not alive. But the purpose of this chapter is to explore the extent to which it can be held as a tenable doctrine that there is a universal right to life, and to what limitations, if any, such a right may be subject.

¹ Amry Vandebosch and Willard N. Hogan, The United Nations: Background, organisation, functions, activities (New York: McGraw-Hill, 1952), p. 430.

Normally, the first limitation placed on the right to life is some such concept as "innocence", a term that can be understood in a variety of subjective or objective senses (the range of which I shall explore later in this chapter). In some theories, the requirement of innocence is the only limitation on the right to life, and the idea that the innocent person may have an absolute right to life has become known to philosophers as the Sanctity-of-Life Principle. This is normally stated as: "One ought never to kill an innocent human being." The relevance of this Principle to the debates over abortion and revolutionary violence should be clear. Relatively few would quarrel with the elimination of tyrants who kill and oppress the poor and powerless: what bothers most moralists about revolutionary violence is that it cannot be surgical. The innocent as well as the guilty tend to be harmed in revolutionary events. Similarly, to the extent that the qualities and rights of a human person can be attributed to a foetus (a complex question to which I shall return in Chapter 4), no one could question the characterisation of the pre-natal human form as innocent (and, of course, archetypically weak). Since it is thus the homicide of the innocent that is of special concern in this study, there is a need to deal carefully with the purported Sanctity-of-Life Principle.

This thesis began with a reference to Albert Schweitzer's reverence for life--that "mystery so inexplicable that the knowledge of the educated and the ignorant is purely relative when contemplating it". For Schweitzer, the fact of life and the quality of life (a conflict between the two is clearly inconceivable for him)

constitute the beginning and foundation of all morality. The rest of ethics is automatic, and all ethics is meaningless without this basic reverence for life. Reverence for life (fact and quality) is the meaning of love and of the Great Commandment of Jesus. What distinguishes people from the rest of nature is a capability to revere life, to have compassion. And preserving life, relieving pain, suffering or fear from any creature (human or otherwise) is both the greatest moral good and the source of the greatest human joy.¹

Indeed, it is difficult to imagine a system of ethics--still less of Christian ethics--which would not promote a reverence for human life in some form or other. However obscured a doctrine of Creation might become in a world of pain and a post-Darwinian age, the incarnation of God as a human being, constituting the foundation of Christianity, would necessarily seem to imply a certain necessary reverence for human life as something sanctified, if not sacred per se. Asking in the most abstract terms, "what specifies the values of the self-made man", Ralph Wendell Burhoe suggests that the advancement of the living system is the goal of all true material and moral advances.² Life is necessarily on top of any hierarchy of values, and moral advances, like those in the technological field, will be those which conform to an accurate

¹ Schweitzer, pp. 114-125.

² Ralph Wendell Burhoe, "What specifies the values of the self-made man?" Zygon 6 (1971): 224-246.

understanding of the universe, what it will permit, and what is viable.

Like secular philosophers, Christian theologians have tended to recognise the fact of human life as constituting, at least in broad principle, the most basic right of all. The forms in which this recognition appears vary widely depending on the specific contextual issue which is being considered (abortion, war, self-defence, etc), but is usually at least implicit wherever a homicide-related issue is under review. Dietrich Bonhoeffer, for example, bases his argument upon the divine will exhibited in creating human life:

Since it is God's will that there should be human life on earth only in the form of bodily life, it follows that it is for the sake of the whole man that the body possesses the right to be preserved. And since all rights are extinguished at death, it follows that the preservation of the life of the body is the foundation of all natural rights without exception and is, therefore, invested with a particular importance. The underlying right of natural life is the safeguarding of nature against intentional injury, violation and killing. That may sound very jejune and unheroic. But the body does not exist primarily in order to be sacrificed, but in order that it may be preserved. Different and more exalted considerations may give rise to the right or the duty of sacrificing the body, but this in itself presupposes the underlying right to the conservation of bodily life.¹

¹ Dietrich Bonhoeffer, Ethics (London: SCM Press, 1955), p. 131.

This theological principle leads Bonhoeffer to affirm, in as pure a form as may be found anywhere in theology or philosophy, the Sanctity-of-Life Principle:

The first right of natural life consists in the safeguarding of the life of the body against arbitrary killing. One must speak of arbitrary killing wherever innocent life is deliberately destroyed.¹

In other words, the primary moral rule for Bonhoeffer is the Sanctity-of-Life Principle: innocent people must not be killed.²

The Sanctity-of-Life Principle, then, is present in much popular, philosophical, and theological ethics, as one might expect to be the case upon even superficial reflection on human society. In this chapter, I shall show that while the Principle indeed provides a useful general guide for morality, it should be approached with caution when a specific contextual dilemma is confronted.

In seeking clarification of the usefulness or otherwise of the Principle, I shall not at this stage attempt a history of doctrine on the matter. Both in Scripture and tradition, theological teaching on homicide has usually been contextual: the doctrine has been developed variously,

¹ Ibid., p. 134.

² Bonhoeffer goes on to explain (ibid., p. 135) that the word "innocent" implies one who "does not engage in a conscious attack upon the life of another and . . . cannot be convicted of any criminal deed that is worthy of death", the second clause being a somewhat obscure qualification that he does not clarify, except to state that his maxim excludes neither killings of enemies in war nor capital punishment.

depending on the specific type of issue being considered (e.g. abortion, self-defence, war). So too, in this thesis, the development of these traditions will be clarified within the contextual chapters. In the present chapter, I shall adopt a more systematic approach, in an attempt to gain a logical overview of the broad theological issues raised by the Sanctity-of-Life Principle, drawing on the insights offered by selected theologians. In this way, I hope to show briefly the general usefulness of the Principle, but also its limitations, before proceeding to do the real work of this study, which is to assess the Principle contextually.

First, though, I am obliged to refute any notion that the Sanctity-of-Life Principle might be contained in, and proven by, Scripture itself (and thus, perhaps, a matter not for any kind of contextual critique, but rather for faithful obedience).

2.2 Scripture and the sanctity of life

Do the Judeo-Christian Scriptures support an absolute right to life for innocents? In attempting to answer this question, I shall not pretend to provide a comprehensive or consistent picture of all the relevant scriptural references. As I have already stated, the Bible is not concerned with the Sanctity-of-Life Principle in general terms, but focuses on specific issues. Thus I shall attempt to be rather more comprehensive in my scriptural surveys in Part 2, where I deal with the two focal issues of this thesis. Here I seek to do justice to the "big picture", by demonstrating the range of attitudes to homicide which can be found in a number of parts of the Bible.

Clearly, MURDER is consistently condemned in the Bible. Key texts on this aspect are Exod. 20:13 and its parallel in Deut. 5:17, as well as Gen. 3:10, 9:6, Matt. 19:18 and Mark 10:19. However, not all homicide is murder. Exod. 21:12-14 attempts to state the distinction in a clear casuistic form:

Whoever strikes a man so that he dies shall be put to death. But if he did not lie in wait for him, but God let him fall into his hand, then I will appoint for you a place to which he may flee. But if a man wilfully attacks another to kill him treacherously, you shall take him from my altar, that he may die.

The value of human life is further upheld in Deut. 30:15-16, and death is there, in Job 2:9, and elsewhere seen as something that happens against God's will. Life is given by God, death is caused by people.¹ Life is not, however, an absolute value in the Canon. The guilty and even the negligent are liable to lose their lives under the provisions of the lex talionis (Exod. 21:23-25; 22:2-3; etc.) though Jesus condemns REVENGE as a motive for violence (Matt. 5:38-48 and parallel at Luke 6:27-36). WAR is justified, commanded, initiated and even sanctified by God (1 Chron. 5:22; 2 Chron. 6:34; 13:12; 20:22; Psalms 146:1; Deut 20:13 Judges 5:4-5; Jer. 6:4; Joel 3:9) and is used by God as a means to punish even his own chosen people (Hab. 1:6; Isa. 10:5ff; Jer. 25:1-9). This is not to say that the Canon upholds war as always good. There appears, if anything, to be a bias in the Canon towards a position that

¹Gerhard H. Ettliger, S.J., "The value of human life in Judeo-Christian perspective," in Human life: problems of birth, of living, and of dying, ed. William C. Bier (New York: Fordham University Press, 1977), p. 6.

while war is often necessary, the taking of life is a negative act. David is not permitted to build the temple because he is a man of war (1 Kings 5:3). The final consummation of time will do away with war (Isa. 2:4; Mic. 4:3), though by means of war (Dan. 7:10; Zech. 14; Psalms 110). In the New Testament, soldiers are neither condemned nor commended for their profession (Luke 3:14; Matt. 8:5-10; Acts 10:1ff). Jesus sees war as inevitable (Matt. 24:6), but has harsh words for those who live by the sword (Matt. 26:52). Military men are included by the writer to the Hebrews (11:32) among the heroes of faith.

It is apparent, then, that the Bible does not support an absolute "right to life", but some would respond that the Scriptures nevertheless promote an ethic protecting the lives of INNOCENTS: the poor, the defenceless, the strangers, the widows, and so on. Certainly there is a special concern for the weak and the innocent in the Canon, and in every place that they are specially mentioned it is as objects of special divine compassion or as ones who are worthy of human sympathy. These people are specifically protected against homicide in such texts as Exod. 23:7; Deut. 21:9; Prov. 6:16-17; Jer. 22:3 and Wis. 12:3-7.¹ Throughout the ministry of Jesus the weak and innocent are objects of compassion and special concern. But the Canon as a whole does not permit an absolute value to be attached to the lives of the innocent. For example, in time of war, women and children of the enemy nation are liable to be placed

¹ Other important texts include Lev. 19:9-10, 13-16, 32-34; Isa. 1:17; Zech. 7:10.

under the "Ban" along with the able-bodied men and their cattle. Here there is a divine command for the slaughter of the innocent! (Jos. 6:17,24; Lev. 27:28-29; Deut. 13:16; Judith 16:19)

To summarise this point, the Canon appears to contain a bias against the shedding of human blood, and especially against the killing of an innocent or weaker person. But a scriptural survey does not in and of itself support an absolute right to life: circumstances may, in the minds of the biblical writers, call for even innocent people to be killed. While supporting general strictures against homicide as a high moral value, the Scriptures do not rule it out altogether.

However, it must be admitted that while an analysis of the Scriptures is insufficient to justify the Sanctity-of-Life Principle, the Principle cannot justifiably be condemned simply on the basis of a few Old Testament references to the punishment of the chosen people's enemies. The critique of simplistic attitudes to the use of the Bible, outlined in Chapter 1, should be sufficient to steer us clear of so easy a rejection of an ethical idea which has been accepted by some of history's greatest minds.

2.3 Exceptions to the rule, and the problem of self-defence

There is, then, a broad Scriptural bias indicating respect for human life. According to the Jewish theologian Immanuel Jacobovitz, this bias translates into an absolute rule-deontology of the sanctity of life:

In Jewish thought and law, human life enjoys an absolute, intrinsic and infinite value. Man is not the

owner of his body but merely its custodian, charged to preserve it from any physical harm and to promote its health where this has been impaired.

This principle has both positive and negative applications. It turns healing where necessary into a religious duty, devolving on doctor and patient alike. Conversely, neither patient nor doctor has the right to refuse receiving or rendering such medical aid as is essential for the preservation of life and health.¹

So, for Jacobovitz, the general responsibility of a doctor to be truthful to his/her patient is overshadowed by the doctor's responsibility to preserve life, and thus the doctor should have "no compunction in suppressing the truth from the patient or even in deceiving him" when there is a danger that telling the truth about the patient's condition could result in a physical setback or in breaking the patient's will to live. Moreover, the patient's desire or consent is irrelevant to the duty of the doctor to perform whatever procedures are necessary in order to save the patient's life.² Here, then, is a true sanctity-of-life

¹Immanuel Jacobovitz, "The doctor's duty to heal and the patient's consent in the Jewish tradition," in Consent and medicine: Convergence and divergence in tradition, ed. G.R. Dunstan and M.J. Skelton (London: King Edward's Hospital, 1983), p. 32. That Jacobovitz is here giving just one possible view of Jewish ethics is indicated by the participation of rabbis in wars both in Israel and in the diaspora--or perhaps, for Judaism as for Christianity, the ethics of war co-exists with other spheres of ethics (in this case, the medical sphere) without necessarily being consistent or correlated with them.

²Ibid., pp. 33-34. It is interesting to contrast this position with that taken by the following article in the same publication, in which the Catholic moralist Brendan

ethic, with the value of human life overriding all other considerations. How acceptable this is as a rigid maxim of medical ethics is beyond the scope of the present inquiry. But the remainder of this chapter will demonstrate how many objections can be, have been, and should be raised to the notion of the Sanctity-of-Life Principle as a universal social ethic.

Certainly, ordered human society depends on some strong restraint against the denial of life to one's fellow humans. That restraint may have a statutory nature, or be a moral teaching, or simply common sense, but it must exist as a feature of what some would describe as natural law. It is unnecessary to prove, but can be taken as a given, that it is at least wrong to take a human life without due cause. That is not a subject for debate in Christian ethics in the contemporary or any other period. The debate rather surrounds the question: what--if anything --constitutes due cause for homicide?

If the Sanctity-of-Life Principle were relegated, then, to the status not of an absolute standard but of a general guideline or primary value, there would be little, if any, debate over it. Clearly, for most people--and certainly for all Christian theologians--it is usually wrong to take an innocent life! I have already shown that in Scripture such a general guideline would be well supported. But whether absolute or general, the phrasing of the Principle is too

Soane insists that in the Catholic tradition the decision about medical treatment is always shared by doctor and patient (p. 37).

vague to be greatly helpful in the ethics of homicide.

Common-law principles of justice dictate, for example, that where an armed man X attacks another man Y, Y may respond with violence and, if the attack is serious enough, kill X in self-defence. Now if X is attacking Y maliciously and with premeditation, then the Sanctity-of-Life Principle does not apply in any way, since X is not in any sense innocent. But if X is intoxicated or insane, he would normally be considered innocent of crime (even if he is in need of therapy). Yet Y would still be considered justified in killing him under the principle of self-defence. Thus there is a second reason for rejecting the Sanctity-of-Life Principle as it is usually stated. Not only is it impossible to support as an absolute standard, which it purports to be, but the concept of innocence does not express well the meaning which society attaches to the general principle of the sanctity of life. Nearer the mark is Marvin Kohl's linguistic re-interpretation of the Sanctity-of-Life Principle:

Generally speaking, one ought not to kill a human being whose existence or actions neither have caused nor will cause imminent harm.¹

This modified version of the Principle would allow for homicide in self-defence; in line with most social ethical systems. But this matter of self-defence is a critically serious problem in the ethics of homicide. It provides the basis of many or perhaps most legitimations of killing. If, as social norms seem to suggest, it is "natural" to kill in

¹Kohl, p. 30.

order to save one's own life, a reasonable corollary is that it would be right to kill in defence of the life of someone else. Another consequential argument holds that since it is right to kill in self-defence, it is also right for a country to wage war in its own defence. And therefore it must surely be right for a country to wage war in defence of either its own security or that of another country. Most wars can be and have, in fact, been defended by some form of this argument. Revolutionary violence, too, is easy to justify from this form of argument, since such violence tends to arise in defence of the masses against violent oppression. As will be seen later, this form of argument also has relevance to abortion, where the foetus can be seen as a "material unjust aggressor". Thus the notion of self-defence purports to provide not a marginal but a highly important exception to the sanctity-of-life rule. This calls for a survey of theological reflections on self-defence.

St Augustine, in his letter to Marcellus, upheld violence in self-defence, on the basis that its purpose is really to benefit aggressors, by teaching them the consequences of aggression. It is indeed good to overcome evil by good, but this general rule pertains to an inward disposition more than to outward actions--so violence in self-defence may, if oriented to the benefit of the aggressor, be a good Christian act. The State, too, must conform to this inward disposition--that is, it must have at heart the interests of all its citizens and even its enemies. But with such a disposition, a war can be a

benevolent duty, "in order that, by bringing under the yoke the unbridled lusts of men, those vices might be abolished which ought, under a just government, to be either extirpated or suppressed."¹

Similarly, St Thomas Aquinas argued that while people should be prepared to refrain from self-defence, sometimes they must exercise it for the common good or for the sake of their opponents.² In another place, Aquinas uses the principle of defence of society as a reason for capital punishment:

If, therefore, the well-being of the whole body demands the amputation of a limb, say in the case where one limb is gangrenous and threatens to infect the others, the treatment to be commended is amputation. Now every individual is as it were a part of the whole. Therefore if any man is dangerous to the community and is subverting it by some sin, the treatment to be commended is his execution in order to preserve the common good, for "a little leaven sours the whole lump".³

In short, one person's rights--including his/her right to life itself--may only be upheld to the extent that the rights of others are not interfered with. St Thomas and St Augustine were both aware of the tension between self-defence and the Gospel of a God who, as a man, died without defending himself. Self-defence is not justified by these theologians because it is a natural instinct, but

¹ Marrin, p. 64

² St Thomas Aquinas, Summa Theologiae, 2a2ae (London: Blackfriars, 1975), p.85.

³ Ibid., p. 23.

because it can benefit either the attacker or the common good. There is a certain amount of strength in the argument from the common good (callous people would have free reign in society if good people were unwilling to defend themselves and others) but it is difficult to see how anyone can be helped by being killed! This ambiguity, however, only highlights the trouble which is presented to Christian theologians by the notion of self-defence.

If one turns from the most influential historic voice of Roman Catholic orthodoxy to the most important Evangelical theologian of the present century, one finds the problem expressed quite clearly. In principle, Karl Barth had no hesitation in affirming that the time can come when a person must kill in obedience to the divine command. Human life is not valued for its own sake, but as something willed by God. Therefore it must be acknowledged that not life, but God's will, is the supreme value:

Human life--one's own and that of others--belongs to God. It is his loan and blessing. For God has unequivocally and fully accepted it in Jesus Christ, in the incarnation of his Word. Therefore respect is due to it, and, with respect, protection against each and every callous negation and destruction. Obedient abstention from such destruction, and therefore the obedient protection of life, will naturally include knowledge of its limitation. It is not divine life, but creaturely. . . . Thus the protection of life required of us is not unlimited nor absolute. . . . Since human life is of relative greatness and limited value, its protection may also consist ultima ratione in its surrender and sacrifice.¹

¹ Karl Barth, Church Dogmatics, vol. III, pt. 4 (Edinburgh: T&T Clark, 1961), p. 391.

But this exceptional situation can never, in Barth's view, arise out of a need for self-defence:

To hit back when I am struck is a very dubious defence against the danger in which my assailant has brought me. . . . Strictly speaking, does not the real emergency arise when I enter the cycle and become an aggressor in turn? . . . On a realistic view, what I achieve in self-defence does not uplift but degrades even myself.¹

There is an inherent difficulty in arguing for self-defence on the basis that it is a natural human instinct. Depending on one's definition of "natural" and of "human", the same could be said for actions in bald self-interest or even callous selfishness. Clearly, a natural instinct can just as easily be towards a morally wrong action as towards a right one. Killing is problematic to anyone concerned with morality, and self-interest and callousness are problematic to Christianity. To "do what comes naturally" is therefore not necessarily right at all. As Jonathan Dymond (a pioneer of modern Christian pacifism who died in 1828) pointed out, self-preservation is clearly a natural instinct, but natural tendencies have a tendency towards abuse. When gratified or followed to excess, these tendencies become harmful to creation in general and humanity in particular.² To prove Dymond's point, one might think of the acquisition of wealth. It is clearly a natural instinct, but if it is the prime criterion for action, it can cause starvation and

¹Ibid., p. 430.

²Marrin, p. 164.

gross injustice. The desire for sexual gratification is a natural instinct, but where it is felt to be more important than care for people, it finds expression in rape and destructive relationships.

Because of this tension, Dymond argued that God has instituted a law superior to nature, to regulate human propensities. The question becomes not "is it natural?" but rather "does Christianity restrict the operation of this instinct?" For Dymond, the content of the superior law with regard to the instinct to self-defence is clear not only from the example of Jesus at the time of his arrest but from his teachings in general:

The truth is that it is to defense that the peaceable precepts of Christianity are directed. Offence appears not even to have suggested itself. It is "resist not evil"; it is "overcome evil with good"; it is "do good to them that hate you"; it is "love your enemies"; it is "render not evil for evil"; it is "whoso smiteth thee on one cheek". All this supposes previous offence, or injury, or violence; and it is then that forbearance is enjoined.¹

For Dymond, the Christian who dies upholding this law against self-defence is as much a martyr to the faith as the one who dies upholding a creed.²

From this brief survey of the views of St Augustine, St Thomas Aquinas, Barth and Dymond, it appears that the imperative to self-defence is not a self-evident thing but a serious problem for Christian morality. However, modern

¹Ibid., p. 165.

²Ibid., p. 166.

orthodoxy does not dismiss but actually defends the "natural" position on self-defence against the various assaults based on the radical meaning of the Gospel. Pope John Paul II has reaffirmed that "Christians have a right and duty to protect their existence and freedom by proportionate means against an unjust aggressor."¹ There is no doubt that the "unjust aggressor", who may be justly killed by the one threatened, refers not only to one who threatens life, but also to one who poses a threat to other kinds of rights:

Catholic theology has been willing to equate other values with physical human life itself. Manuals of moral theology justified the killing of an unjust aggressor as a last resort in defense of one's life, bodily integrity, spiritual goods "of greater value than life or integrity" such as the use of reason or conservation of reputation in very important matters, and material goods of great value.²

Nor need the unjust aggressor be "subjectively guilty for what he is doing"³: the intoxicated or insane person may be killed with equal justice if he/she is a "material unjust aggressor"--that is, one who poses a threat to life, health, liberty, property and so on, without being morally

¹Walter Wink, "Entering the fire: violence and nonviolence in South Africa," Sojourners, January 1987, p.29.

²Charles E. Curran, New perspectives in moral theology (Notre Dame, Indiana: Fides Publishers, 1974), p. 191.

³Ibid., p. 189.

blameworthy.

However, if an unjust aggressor is to be deemed justifiably killed, there must be clear evidence that he/she posed a serious threat to essential rights or values. This is the doctrine of proportionate reason. Pickpockets, for example, may not be legitimately killed by their victims. They are certainly unjust aggressors, but the inconvenience or loss they cause to their victims would be unlikely to amount to proportionate reason for homicide, which acts against a right of far greater value than a wallet or handbag: the right to life.

Of course, Protestant orthodoxy on any matter is more difficult to isolate than Catholic orthodoxy. There is no evidence of anything like a common position on self-defence, and it would be beyond the scope of this study to go searching for the range of viewpoints expressed by leading theologians of the Protestant persuasion. Nevertheless, it is safe to say that the mainstream Protestant churches--as opposed to the historic peace churches, such as Mennonites, Jehovah's Witnesses, and Quakers--have not been noted for preaching against self-defence. In fact, by their silence in the face of common law, they appear to accept the principle of proportionality, at least implicitly, in regard to homicides in defence of life and other values.

If the idea of proportionality is accepted, then the question of self-defence becomes a matter of deciding what rights and values are of proportional value to human life, in order that one may decide under what circumstances the notion of self-defence can give proportionate reason for homicide. Put differently, this could be seen as a question

about when a person loses his/her "innocence", and thus forfeits the protection offered by the Sanctity-of-Life Principle.

Pacifists, of course, reject any such question out of hand. Christian pacifists hold that a Christian should under all circumstances choose to lay down his or her own life, if necessary, rather than kill another.¹ Pacifists go further than the Sanctity-of-Life Principle as traditionally stated: the concept of "innocence" does not arise, and the concept of an unjust aggressor and the notion of proportionality are irrelevant. Homicide in the pacifist perspective is an absolute evil: one ought never to kill any human being. This represents a fundamental challenge to the orthodox positions of Roman Catholic, Protestant and secular ethics, and presents a call to strengthen, not discard, the Sanctity-of-Life Principle. The nature of this challenge, in its various forms, needs to be understood before a final

¹ Is suicide, or the voluntary surrender of one's life, a violation of the Sanctity-of-Life Principle? Few would argue so. The Principle is most usually cited against the killing of another person, and a wholly different set of arguments applies to a decision concerning one's own life. Many (such as Jacobovitz and Bonhoeffer in their works cited above) have argued that one does not have rights even over one's own life, but where an actual choice has to be made between surrendering one's life and killing another, the choice of sacrificing one's own would tend to be considered an act of moral courage in the tradition of the martyrs, rather than a matter of homicide. More usually, of course, suicide is not an act of ethical relevance but one rooted in despair. In any event, this is not a focal issue for the present study.

were followed consistently in a literal way!)

But the Christian pacifist position is not dependent solely on the Sermon on the Mount, nor on other literal interpretations of Scripture. Pacifists claim to be following the only possible ethic which is true to the teaching and example of Christ. This form of argument frequently understates the enormous difficulties encountered both in ascertaining the actions and statements of the historical Jesus and in carrying out the hermeneutical task of interpreting the New Testament's relevance to modern social issues. Because of these difficulties--and the inevitable presence of subjective standards whenever anyone seeks ethical guidance in the Scriptures--it should come as no surprise that the teaching and example of Christ is appealed to by advocates on both sides of the debate on the Sanctity-of-Life Principle. St Augustine (who is also cited in this regard by Aquinas) argues from Jesus' failure to condemn the Roman centurion whose slave was healed, and also appeals to the prominence in the Canon of military men from David to Cornelius. Of John the Baptist's exhortation to the soldiers, he writes: "To be sure, when he commanded them to be content with their military wages, he did not forbid them to serve as soldiers."¹ However, as Turner² says of the argument from Jesus' silence on war, such an argument must take second place to the far more central

¹ St Augustine of Hippo, Selected letters, trans. J.H. Baxter (London: William Heinemann, 1969), p. 327.

² Geoffrey E. Turner, "The necessity of Christian pacifism," The Churchman 92,2 (1978): 150.

message of "peace, reconciliation, . . . the positive power of good." Christ's teaching on love is certainly more basic to the proclamation of the kingdom than passing references to his acceptance of soldiers as persons.

It is in terms of this teaching of love that certain South American bishops have rejected recourse to violence in the struggle for social justice. Thus the Chilean bishops:

. . . At the bottom of this impatient violence there is more hate than love, more passion than reason, more desire to destroy the present evil than to construct the future good. . . . Let us struggle for justice, but let us struggle with love.

Also the Bishop of San Isidro:

The struggle for justice . . . must not only be judged from the point of effectiveness, but also by the spirit that animates it. A struggle that will perhaps have to be hard, but upright, fair, without hate. Every Christian struggle, if it is to be Christian, must contain a ferment of love and unity that is stronger than hate.¹

Have these bishops then solved the problem of applicability of the Sanctity-of-Life Principle? Does the word "love"--so indisputably one of the key words in Christ's teaching--make it impossible to contemplate the ethical homicide of an innocent, thus proving that the Principle (or even some more stringent formulation) is an inevitable distillate of Christian doctrine on this matter? Unfortunately, the question is too complex to allow so simple a solution. (As will be seen in Chapter 3, the South American bishops

¹ Both statements cited in When all else fails: Christian arguments on violent revolution, ed. "IDO-C" (Philadelphia: Pilgrim Press, 1970), pp. 211-214.

clearly recognised this complexity in the historic statements made at their second general conference, at Medellin in 1968.) Even the word "love", so seductively simple to pronounce and so attractively inoffensive, is a difficult word to apply in ethics. Joseph Fletcher, of course, insists that love is a meaningful concept for ethics, and he constructs his whole system of "situation ethics" around it--though between the pacifism of the above-cited episcopal statements and the act-utilitarianism of Fletcher there is a wide gap indeed. Love, according to Fletcher, is not a sentimental matter, but a matter of justice and of all-inclusive self-giving. It would appear to be the thrust of Fletcher's system that love is a quantifiable criterion, a matter of helping as many people as possible while hurting as few people as possible. Where Fletcher is right (and the above-quoted bishops are thus wrong) is in insisting that Christian agape in the New Testament style is less a matter of passion and "spirit" than of sacrificial actions. But Fletcher is equally guilty of over-simplifying love when he suggests it is a matter of doing arithmetic concerning how many people are helped and how many are hurt by by a proposed course of action (supposing one can predict those numbers with any certainty). "Helping" and "hurting" are not simple terms either--as the sayings "spare the rod and spoil the child" and "hurt in order to help" may suffice to indicate. Someone has remarked that the Grand Inquisitor, too, regarded himself to be motivated by love.

Far more direct in his treatment of Jesus' teaching and example in regard to homicide is Yoder. He writes that

Jesus' objections to the Zealot option were not so much that it was doomed to failure as the fact that even if it could succeed, it could not produce a really new order. By subjecting people to causes, the Zealot line "preserves unbroken the self-righteousness of the mighty and denies the servanthood which God has chosen as his tool to remake the world."¹ As will be seen later, Yoder's critique along these lines is a potent argument against contemporary revolutionary movements.

In the eyes of pacifists, violence becomes even more suspect when Jesus' example is examined along with his teaching. Ferguson² is adamant that the cross is the essential revelation of God and the characteristic Christian answer to questions about social ethics. He quotes Gandhi as a challenge to those who choose violence: "If you Christians rely on soldiers for your safety, you are denying your own doctrine of the cross." In a lighter vein, he recalls Tom Lehrer's "The Lord's my shepherd, says the psalm / But just in case, we'd better get a bomb"³. The cross, according to Ferguson, is not a path only for the eccentric and the saint, but "the way which is laid upon anyone who wishes to be a follower of Jesus."

¹John H. Yoder, The original revolution: Essays on Christian pacifism (Scottsdale, Pennsylvania: Herald Press, 1971), pp. 24-25.

²John Ferguson, The politics of love: The New Testament and non-violent revolution (Greenwood, South Carolina: The Attic Press, n.d.), p. 104.

³Ferguson adds: "In American English, that rhymes."

Sadly, again (for the emotive potency and conviction of this basic argument for an ethic of radical submission is undeniable), the "cross" is no more effective than "love" as a magic word to solve complex ethical questions. The cross (like happiness in the ditty) is different things to different people. While for Ferguson it is an call to radical submission, for Burgess Carr it sanctifies violence:

If for no other reasons, we must give our unequivocal support to the liberation movements because they have helped the church to rediscover a new and radical appreciation of the Cross. In accepting the violence of the Cross, God, in Jesus Christ, sanctified violence into a redemptive instrument for bringing into being a fuller human life.¹

All one can reasonably say about Jesus' own attitude to the Cross is that he saw it to be God's will for him, and deductions of any ethical relevance, other than that Christians must be willing to suffer as the cost of being God's servants, are speculative.

It must, however, be conceded that what can be known and understood of the teaching and example of Christ lends a definite weight to the pacifist position. In every place where Christ is reported to have taught about matters involving conflict between a disciple of his and another person, it is the other who should be forgiven, accepted, allowed to have his/her way, even to the detriment of the self. Clearly, there is a need for at least a presumption

¹ Excerpt from an address delivered in Lusaka, May 14 1974, cited in Charles Villa-Vicencio, Between Christ and Caesar: Classic and contemporary texts on church and state (Grand Rapids, Michigan: William P. Eerdmans, 1986), p. 177.

against self-interest (which includes self-defence) as an automatic validation of homicide. The idea that the Christological bias towards submission constitutes an absolute norm is, however, debatable to say the least.'

2.5 Conclusion

This preliminary discussion of the Sanctity-of-Life Principle (preliminary because, as I argued in Chapter 1, the real test of the insights gathered here will be met when they are applied to the grey-area issues themselves in the remainder of the thesis) has suggested certain tentative conclusions about the Principle's validity in Christian ethics. It would appear that the Sanctity-of-Life Principle is not tenable as an absolute. While the Judeo-Christian Bible and Christian thought since the finalisation of the Canon, as well as most secular morality, certainly affirm the value of human life, and particularly lay emphasis on the need to protect the lives of the weak and innocent, there does not appear to be justification in those sources for an absolute right to life, even for the innocent. It is hard to escape from the fact that human life in society necessarily involves people in conflicts of rights (that is, situations in which the rights of one person conflict with those of another person, or in which certain general values conflict with other values, and a choice has to be made). These situations do not lend themselves to easy solutions such as is offered in the simple, uncompromising language of the Sanctity-of-Life Principle. It is possible that in some such situation an ethical choice must be made which will result in the death of an innocent person or persons. Neither vague appeals to "love" nor emotional invocations of

"the cross" render impressive defences of the Principle, and Jesus' own teachings and example have been appealed to by those who have argued for both sides of the debate over justifiable homicides. On the other hand, it has to be recognised that homicide is never--even (or perhaps especially) in instances of self-defence--an easy act for the Christian to justify.

In view of the methodological arguments set out in Chapter 1, it should come as no surprise that at the end of a mainly theoretical survey such as the foregoing, no firm conclusion has been reached other than that easy solutions are not possible. Rather, meaningful ethical analysis of the question of the sanctity of human life will have to take place in the context of the issues themselves: in the present study, the issues of abortion and revolutionary violence. This analysis will be attempted in Part 2, which thus becomes, predictably and of necessity, the most important part of this thesis.

Meanwhile, the Sanctity-of-Life Principle is not proven. Certainly, a survey of Scripture and theology indicates that the taking of a human life is always a serious matter, and an act to be contemplated only where another life, or lives, or matters of proportionate importance to life itself, are at stake. To say such homicide can be contemplated under those circumstances is not to prejudge the question of whether or not it will be justified. All that can be said at this stage is that the Principle cannot be allowed to arrest (as it seeks to do) the serious contextual consideration of ethical choices related to homicide.

On the other hand, the foregoing is sufficient to caution us, in the course of those considerations, against speaking casually of violence or of abortion, and the alleged justifications for those acts, as if we were concerned with anything other than one of the most serious morally negative acts in the theological lexicon. Writing about euthanasia, the Catholic G.C. Goosen (echoing Jacobovitz, quoted above) holds that life has "intrinsic worth which all accept, although individuals may articulate this in different ways."¹ In the same publication, Rabbi Abner Weiss cautions that euthanasia in any form involves a rejection of deontological standards in favour of teleological considerations (a rejection of which he disapproves).² Whatever one's views on the merits of deontological versus teleological criteria, the same comment could be made, I suggest, on all forms of moral killing, and it indicates the need for caution. As Kohl has pointed out, people have believed they have the right to kill in order to protect "almost anything they consider to have great value"--including life, property, honour, chastity, liberty, religion, moral principles, mental well-being, and general well-being.³ In examining issues of homicide, therefore, the Christian theologian must be cautious not to charitably or sentimentally accept statements and arguments which

¹ G.C. Oosthuizen, ed., Euthanasia (Cape Town: Oxford University Press, 1978), p. 27.

² Ibid., p. 37.

³ Kohl, p. 34.

purport to justify killing by reference to vague principles (such as justice, peace, and so on). Rather, the questions should be asked of any alleged justification of a killing: What is the conflict of values here? Are the conflicting values proportionate? What is to be the prevailing value, and why? And is any value here sufficiently important to people that it can really demand the elimination of a human life?

PART TWO

CONCRETE ISSUES

PROLOGUE TO PART 2

The focus of this thesis now shifts from broad principles of method and substance to actual dilemmas in Christian morality. Each of the following two chapters will be devoted to one "grey area" issue of the ethics of homicide.

In the method I have proposed, which I am now proceeding to test, METHODOLOGICAL PRESUMPTIONS must be identified. These presumptions will determine where the burden of proof will lie in weighing the case made for homicide in any context. I shall identify in this prologue the presumptions that will be applied to the debates contained in Chapter 3 (concerning revolutionary violence) and Chapter 4 (concerning abortion). In those chapters, I shall attempt to address the two focal issues with the utmost seriousness, in an effort to rigorously test my proposed method. I shall then be able to move on, in Part 3, to assess the degree of success attained in applying the method, as well as to draw on the contextual criticisms themselves in an attempt to highlight any important insights which appear to emerge about the ethics of homicide and the sanctity of life. The first task, then, is to identify methodological presumptions which will be applied and tested in the following chapters.

I showed in Chapter 2 that the value of human life is not an absolute in theological ethics, and that not even the preservation of the life of an innocent person is a plausible absolute. Nevertheless, the discussion in that chapter is certainly far from irrelevant to the search for ethical values pertaining to homicide. It is not inappropriate to restate the conclusion of Chapter 2. While the Sanctity-of Life Principle is not proven, biblical and theological considerations support a view that homicide is always a serious matter, and an act to be contemplated only where another life, or lives, or matters of proportional importance to life itself, are at stake. It is not difficult, then, to identify as a PRIMARY PRESUMPTION of the analysis to follow, that HUMAN LIFE IS A GOOD in Christian ethics. Thus any attempted justification of any act that involves homicide will bear the burden of proving its moral necessity on the basis of the greater good.

There is clearly no other conclusion arising out of the foregoing chapters that is as fundamental to the ethics of homicide as is that just named as a primary presumption. However, a variety of other presumptions can be identified, which may be described as SECONDARY PRESUMPTIONS, that is, presumptions which do not rival the primary one in importance or in terms of purpose, but which will serve to elucidate and flesh out the primary presumption in analysis of actual issues:

It will be recalled that in Chapter 2, while discussing the pacifist ethics of Jonathan Dymond, I conceded that the principle he proposed, which we might describe in shorthand as a principle of disinterested love for the other, was one

which was difficult for the Christian to dispute. Wherever Jesus speaks about conflicts between one person or party and another, it is to this principle that he summons his disciples: love for the other, even the enemy, concern for his/her needs over and above one's own (after Christ's own example); and so on. Yoder describes this principle as a matter of "radical submission". Though I have rejected the attempts by both Dymond and Yoder to elevate this idea to the status of a moral absolute for the Christian, there is no disputing its force as a general standard. Thus Wogaman proposed what he called a compensatory presumption against one's own self-interest in any decisions where one's own tendencies towards selfishness might be expected to be expressed."¹ This bias against self-interest is of sufficient importance to be specified as a secondary presumption on the ethics of homicide: that THE INTERESTS OF THE OTHER will be presumed to be paramount: the one who would commit homicide in his/her own interest will bear a special burden of proving the act's necessity.

Wogaman's compensatory presumptions--which he developed in the light of his "negative presumptions" about human sinfulness and finitude--also include a presumption for the interests of the underdog. In assessing the scriptural witnesses on homicide, it was demonstrated in Chapter 2 that most of these references (though not all) display a special concern for protecting the lives of those who are weak and powerless. This concern should also be evident in a Christian ethic of homicide, taking the form of a

¹Wogaman, pp. 113-114.

presumption FOR THE LESS POWERFUL where their interests conflict with those of the more powerful in society. Those who seek to justify the killing of powerless people by powerful people will bear a special burden of proving the necessity of the act.

It was acknowledged in Chapter 2 that homicide can occasionally be contemplated in circumstances where the rights of one person or party conflict with those of another. However, it was also shown that the ethical resolution of such conflicts should come under the influence of the theological principle of proportionate reason. For example, the affirmation of the value of human life contained in the fundamental presupposition stated above cannot reasonably be called upon to bow to relatively trivial denials of rights such as might be inflicted by a pickpocket. So, all other things being equal, the killing of a pickpocket by his/her victim cannot be justified. Thus it will be a presumption in what follows that ONLY AN EXTREME DISEQUILIBRIUM OF RIGHTS OF PROPORTIONATE SIGNIFICANCE can be a factor in the justification of homicide, and thus the burden of proof rests on those who would justify homicide because of such an alleged conflict of rights.

The last presumption of commensurate importance to the foregoing has been suggested by the discussion of law and Gospel in Chapter 1. There it was proposed that there is a dual reality in the Christian moral character. The Christian believer is a new creature, in the sense of having profound possibilities and potentialities for free choice, and the same person is also a sinner, who is inclined at

times to make the wrong choices and wreak havoc on his/her fellow creatures. Thus the Christian needs general normative standards, for the sinner's sake, and also requires ultimate freedom of conscience, to liberate the saint to make the innovative and dangerous choices which are part of the responsibility for creation which is expected of human beings. This duality suggests what Wogaman calls a polar presumption: one which calls the ethicist to take account of two complementary and opposite truths. Not only the methodology of, but also the judgements formed within the ethics of homicide should be influenced by a presumption for both FREEDOM AND OBEDIENCE--freedom of the Christian to follow his/her conscience to the end, and enough moral guidance to guard, as far as is possible within the limitations imposed by realism, against casual justifications of morally serious acts.

Apart from the primary and secondary presumptions, there is a third group of presumptions that appear to arise from the theoretical considerations of the first two chapters of this thesis. The presumptions at this tertiary level might be termed "linguistic", as they primarily address matters of language and logic.

A presumption will operate in the proceeding analysis against QUANTIFICATION OF COMPLEX CONCEPTS. As seen in Chapter 2, there have been attempts to decide dilemmas by seeking to quantify love. According to such a method, if a choice has to be made between the death of one person and the deaths of two people, it would be the one that must die. Since such an easy solution is both suspiciously attractive and oversimplistic, quantifiable solutions will bear a

special burden of proving that they are the appropriate solution.

There will similarly be presumptions against ABSTRACT AND ABSOLUTE GENERALISATIONS. Supposed solutions that seek to resolve issues by vague appeals to such concepts as "the cross" or "love" will bear a special burden of proof, as will solutions which ignore complexities by, for example, seeing issues narrowly as homicide issues rather than as issues which involve homicide as well as other difficult ethical matters. (This cautionary presupposition emerges from the discussion of statements contained in the Introduction to this thesis. It need hardly be added, given the title and focus of this thesis, that attempts to evade the issue of homicide, as in certain other statements addressed in the Introduction, will also fall foul of this presupposition.)

Similarly, there will be presumptions against:

* The so-called "slippery slope"--and so the concretely likely effects of acts will be considered more relevant than the possibly experiential influences of the justification of those acts ¹;

* Universal solutions--situations are unique, and no solution to a concrete problem will be considered necessarily applicable to other situations²;

* Supposedly objective solutions to subjective problems (facts do not "speak for themselves" but have to be

¹ See pp. 53ff. above.

² See pp. 44f. above.

interpreted, so, while an objective attitude can helpfully be assumed for the sake of discipline, allegedly factual or objective solutions to ethical dilemmas should bear a heavy burden of proof, as will solutions that are supposed to rest upon "accepted norms" of society¹;

On the other hand, given what has been said above² about the central role of the Bible for Christian theology, there will be a presumption FOR any truths or values which seem to emerge as reasonably consistent in the scriptural witnesses. (This will not, of course, serve to give authority to individual texts.) Proposals which seem to weigh in against these values will bear a burden of proof.

To conclude this foreword to the second part of the thesis, it is appropriate to summarise these various presumptions which will operate in deciding the burdens of proof for the ethics of homicide with particular reference to abortion and revolutionary violence.³

1. Primary presumption.

THE PRESERVATION OF HUMAN LIFE is the desirable end of all moral decisions, and any proposal to the contrary will

¹ See pp. 45ff. above.

² See pp. 36ff. above.

³ I do not intend to labour each of these eleven presumptions in turn whenever a question is discussed in the following chapters. The primary presumption is clearly the raison d'etre for the analysis as a whole, and hardly needs to be mentioned again until the time comes (in Chapter 5) to draw some general conclusions about the conditions under which it can be outweighed by calculations of the greater

bear the burden of proof.

2. Secondary presumptions.

2.1 AGAINST SELF-INTEREST: The justification of an act of homicide which is in the interests of the actor will bear an additional burden of proof.

2.2 FOR THE POWERLESS: The justification of an act of homicide in which the person/group killed seems to have access to less social or economic power than the killer(s), will bear an additional burden of proof.

2.3 ON CONFLICTS OF RIGHTS: Where the justification of an act of homicide rests on a conflict of rights, there will be an additional burden of proving that the conflict amounts to an extreme disequilibrium of rights of proportionate significance.

2.4 FREEDOM AND OBEDIENCE: The justification of an act of homicide must bear a special burden of proof if it declines to take account of both the need for adequate

good. As for the linguistic presumptions, these will need to be borne in mind while conducting all of the discussions below, and the reader will quickly notice if I fail to do so. It is, then, mainly the SECONDARY presumptions which will be referred to explicitly in Part 2 of this thesis--wherever I recognise an issue to which one or more of these presumptions have special relevance. For example, it is obvious that Presumption 2.2 (which calls for a burden of proof against killings of the less powerful) could pose a special challenge to a "pro-choice" position on abortion, but be of less relevance to a revolutionary uprising of those who are deprived of political and economic power. The presumptions will, then, be addressed as and when they suggest themselves to be significant challenges to a position of argument under discussion.

general standards of Christian moral behaviour, and the freedom of conscience of the Christian person.

3. Linguistic presumptions.

A special burden of proof will operate against any argument which appeals to:

- 3.1 quantifiable considerations;
- 3.2 abstract and absolute generalisations, and
- 3.3 "objective" or "factual" solutions to dilemmas, or "generally accepted" norms.

Furthermore:

3.4 Direct consequences of actions will be presumed to have more relevance than alleged long-term effects of the acceptance of those actions as legitimate.

3.5 Situations will be presumed to be unique, so a special burden of proof will bear on allegedly "universal" solutions to dilemmas.

3.6 If clear and consistent values can be shown to emerge from the Canon of Scripture, then a special burden of proof will rest on any proposal that appears to contradict those values.

CHAPTER 3

REVOLUTIONARY VIOLENCE

3.1 The problem defined

Revolutionary violence is the first of two ethical issues to which the methodological presumptions about the sanctity of life will be applied. In this instance (unlike, as I shall show, the issue of abortion) there is no need to debate whether or not one is faced here with a question of the sanctity of life and the ethics of homicide. Homicides may be assumed to be an inevitable component of revolutionary violence. However, before one can seriously examine the matter from the perspective of homicide, one must recognise the force of an argument which would, by clear implication, put a question mark against any examination of revolution in this context.

Gill¹ has argued that revolutionaries are not faced with a choice between violence and non-violence. Their choice is between FORMS OF COERCION. All political groups use coercion to promote their interests, and the ethics of violence should be seen within the true context of the morality of

¹David M. Gill, Power, violence, and social change (World Council of Churches, n.d.)

political coercion--which is part of the ethics of the use of power, rather than having anything to do particularly with the sanctity of life. Here it becomes important to define certain terms which are central to the subject of this chapter, the meanings of which constitute a rather complex problem. The most important terms are "power", "force", "coercion", "violence", and "non-violence".

POWER is rightly and simply defined by Rollo May as the "ability to cause or prevent change".¹ By that definition, power is, of course, an essential dimension of what it means to be a human being in a free, dynamic relationship with one's environment. Power is ethically neutral: it can be used for good or evil purposes. Types and aspects of power range from mere influence over others or over one's environment to control over them.

FORCE is a form of power, and the word is sometimes used simply to describe some considerable degree of power. However, the most usual and helpful usage is as a way of specifying either physical power (the most common association) or other forms of power which have the potential of eliminating or which seek to eliminate another party's choice, compelling that party to do as the possessor of force requires. COERCION is closely related to, and sometimes synonymous with, force. As opposed to persuasion, coercion can be defined as the use of force to constrain or restrain any person or group. (That is, force is the potential which is used in coercion.)

¹Rollo May, Power and innocence: A search for the sources of violence (New York: William Norton, 1972), p. 99.

The coercive use of force can be direct (when the force is actually applied against the coerced party) or indirect (when its use is explicitly or implicitly threatened, and thus a factor in achieving compliance). It would probably be true to say that force and coercion are indispensable to social life. The law, for example, has to be backed up by coercive power. Thus, like power, force and coercion are neutral: they are capable of being used for good or evil purposes.

VIOLENCE traditionally refers to physical force which causes actual harm. Dictionary definitions tend to refer to these two aspects: the exercise of physical force, and the consequence of injury to persons or damage to property. The word is commonly considered to include not only physically but psychologically or morally harmful effects. The existence of what is often called structural or institutional violence is now generally recognised by moralists--David Russell finds this to be "no longer at issue", though he offers no clear definition of this type of violence. Instead, while admitting that "no single definition of violence is entirely satisfactory", he suggests a broad definition of violence as "the serious abuse of power"¹. Under this heading he includes, for example, the legal destruction of family life, and forced removals of people to areas of starvation.

Russell is indisputably right to describe the latter

¹David Russell, "A theological critique of the Christian pacifist perspective, with special reference to the position of John Howard Yoder" (Ph.D. dissertation, University of Cape Town, 1984), pp. 10-11.

things as serious abuses of power, and I think (for reasons that will become clear in a moment) that he is right also to describe them as violence. But his definition of violence as the "serious abuse of power" is unhelpful, for two reasons. First, in using the word "abuse", which is by definition a negative judgement (meaning literally "bad use"), Russell would here seem to prejudge the whole issue of violence by saying it is always bad (which is, if the meaning of violence is anywhere near its normal range of usage, precisely what Russell does not wish to do!). Rather (and Russell clearly agrees with this), violence is in itself (as I have already acknowledged to be true of homicide) something that can be necessary. Not only force and coercion in general but physical force has always provided a direct and indirect means of law-enforcement for society. To some extent, then, violence, like force and coercion in general, is ethically neutral--or at least a necessary evil--rather than definitively a "bad use" of power.

The second reason why Russell's "serious abuse" definition is unhelpful, is that it is far too broad. For example, a Cabinet Minister who makes a huge personal profit out of awarding a government contract, would normally be considered to have seriously abused his or her power. But this is not violence in the normal sense of the word. It is hard to see what is wrong with the traditional definition of violence as the use of physical force to cause or threaten injury or damage (whether or not actual harm is intended). So long as "injury" is not defined so narrowly as to exclude economic and psychological harm, harm to family life, and so forth,

that definition seems adequate. In other words, violence is the physical form of force or coercion. (This definition will, of course, allow the designation of certain types of injustice as structural violence--a term which is, as J.G. Davies argues,¹ a useful way of describing grave systemic injustice which relies on the use or threat of force.)

In view of the definition I have just accepted, NON-VIOLENCE (a term which is not always defined in a straightforward way) is simply the absence of physical force. As will become clear later, this definition would not satisfy certain advocates of non-violence as a philosophy of life, such as Gandhi, Tolstoy and Yoder. They would want a more positive definition, but the question must be asked why in that case they choose to describe their philosophy in terms of a negative prefix. Rather, as I have found nothing wrong with a straightforward definition of violence for the purposes of this study, I shall adopt the straightforward definition of non-violence as a description not of a philosophy but of certain types of activity or strategy--that is, those which do not involve the direct or indirect use of physical force or coercion.

My prime concern is to deal with the ethics of homicide. Homicide is a form of violence, which is in turn a form of force or coercion, and thus of power. Killings on a large scale are without doubt a morally serious aspect of war and revolutionary violence, and I have already shown that a primary presupposition of Christian ethics must be the intrinsic value of human life. Thus it is not only legitimate but

¹J.G. Davies, Christian, politics, and violent revolution (Maryknoll, New York: Orbis Books, 1976), pp. 130-136.

essential to deal with war and revolutionary violence squarely in the context of the ethics of homicide, rather than (however much more comfortable we might find it) as an aspect of the ethics of coercion or power in the broader sense. (This is, of course, also in line with the presumption I have identified--as number 3.2--against linguistic abstractions.)

Finally, I must define what I mean by REVOLUTIONARY violence. If revolution is the overturning of a government, form of government or socio-economic system by means of force (whether this force is violent or non-violent), then revolutionary violence is the application of physical power in order to force either a change in government or more fundamental social change. It is a particular form of war (WAR is "a contest between states, or between parties within a state . . . , carried on by arms"¹), and while it has special ethical features not typical of wars in general, the analysis must begin with the broader question of the ethics of war.

War as a special problem

Special features should be recognised at the outset when the ethics of homicide turns its attention to the problem of war. In war, homicide is promoted from the sphere of the isolated incident to the sphere of the norm: killing becomes, for the duration of the war, a way of life. Because of the normalisation of killings in war, society has come to accept war as a prima facie justification for homicide. What has happened, in effect, is that the ethics of homicide has been turned on its head. Instead of seeing war as a

¹Chambers 20th Century Dictionary.

particularly serious moral problem because of the number of homicides involved, people have tended to think of killings as an unfortunate but necessary fact of life in wartime, and of war as having nothing at all to do with the morality of homicide.

As will become clear later in this chapter, the popular assumption that war can legitimate homicide, rather than homicide rendering war illegitimate, has often been reflected in the writings of Christian theologians (at least since the time of St. Augustine). It was Karl Barth who most dramatically turned the focus back onto the issue of killing. Barth, as I have shown,¹ was not a pacifist. It would have been impossible for him to be an "-ist" of any kind, since his radical ethic of obedience to God alone left him no room for absolute obedience to any abstract principle. Yet, as Yoder points out, Barth was

the only European theologian of his stature in modern times to have gone as far as he did towards the position (pacifism) he criticises. He declares the the pacifist case to be "almost overpowering", even though he cannot accept it fully.²

Yoder describes Barth's analysis of war as

a merciless critique of the complacency with which traditional theology has always justified war.³

Indeed, Barth himself has written on the strength of the

¹See p. 98 above.

²John H. Yoder, Karl Barth and the problem of war (Nashville: Abingdon, 1970), p. 51.

³Ibid., p. 37.

the pacifist position:

If Tolstoy and Gandhi were wrong, they were a hundred times nearer the truth than the primitive gospel of the mailed fist and all the doctrines which have tried to blunt the edge of (Jesus') sayings (against self-defence) by the sophistical distinction between a sphere in which they are valid and another in which they are not. And it would have been far better if history had known more of the exaggeration of Tolstoy and Gandhi than the opposite.¹

In declaring that homicide in war was not more excusable but more morally problematic than in peacetime, Barth was responsible for a "revolution" in the theological ethics of war.² Barth gave three reasons for this declaration. First, war involves everyone in the nation both in the process of inflicting suffering and in being victims of suffering. Second, killers in war are acting under orders, and their victims are other people who are acting under orders. And third, apart from homicide, war demands that "almost everything God has forbidden be done on a broad front"--soldiers and their leaders must steal, destroy property and nature, lie and deceive, slander, and "unfortunately to a large extent fornicate". For these reasons, Barth held that a Grenzfall³ in the case of war could only be conceived with even greater reluctance than in any other cases involving homicide.

Geoffrey Turner, a Christian pacifist, has explained with admirable conciseness the special problem of war. War has no rules except its own. It is impossible to conduct

¹Karl Barth, Church Dogmatics, vol. III, part 4 (Edinburgh: T and T Clark, 1961), p. 430.

²Yoder, Karl Barth, p. 38.

³See pp. 63-65 above.

a war along lines of general morality--victory is won at the cost of dispensing with scruples:

A state cannot go to war with reservations, unless, that is, it goes to war saying "we would rather be defeated than do..." Such a view is impossibly romantic and nineteenth-century. War is not a matter of morality; it is a matter of calculation. Once you have admitted the allowability of war, you must accept any step which that implies.¹

Moreover, as Burtchaell points out, in war "the level of savagery is always determined by the more ruthless party." While some countries might abide by war conventions--"in a word, they agree not to use certain types of cruelty only because they would rather not suffer them in return"--in any war, one party determines how far any given type of terror will extend, and the other must respond in kind, or lose.² All, as the saying goes, is fair in war, at least! Winston Churchill, expressing the British national mood for harsh retaliation against the German Blitz, made this clear: "There are no sacrifices we will not make, no lengths of violence to which we will not go . . ." to achieve victory.³ (And the fire-bombing of non-industrial civilian centres like

¹Geoffrey E. Turner, "The necessity of Christian pacifism," The Churchman 92, 2:152-153.

²James Tunstead Burtchaell, C.S.C., Philemon's problem: The daily dilemma of the Christian (Chicago: ACTA Foundation, 1973), p. 115.

³Albert Marrin (ed.), War and the Christian conscience: From Augustine to Martin Luther King, Jr (Chicago: Henry Regnery Co., 1971), p. 147.

Dresden proved he meant it.)

How may Christians respond to a moral problem of such magnitude? The Mennonite scholar John Howard Yoder (without whose analysis of war and Christian social ethics in general no study of these subjects today would be complete) suggests that there are four possible responses. First, there is the possibility of outright rejection of war--this we call pacifism (and it is Yoder's chosen option). Second, there is the possibility of sanctification, the opposite of pacifism. The sanctifying option holds that war, or at least a particular war, is not only right but blessed and holy. (This response was typified by the Crusades, but is seldom expressed today.) A third possibility is the view which, in effect, gives a blank cheque to the ruler of a state. According to this view, if a legitimate authority declares war, the Christian has a duty to participate in the war--"my country, right or wrong". (This response is common to the orthodoxies of both Protestantism and Catholicism.) The fourth and final possibility is the response of restraint. In this view, a war can be classified as either just or unjust, and only a just war can demand Christian participation.¹

Yoder suggests convincingly that the just-war theory is the one accepted explicitly or implicitly by most modern Christians of all persuasions. As such, it will be examined carefully later in this chapter. First, however, it is

¹John Howard Yoder, "A critical evaluation of traditional Western moral thought on war and violence" (occasional paper, publisher unknown), pp. 1-4.

necessary to attempt to gain some understanding of how the just-war approach came to achieve its prominence.

3.2 Towards the just war

Ideally, any survey of Judeo-Christian attitudes to participation in war and political violence should begin with the positions taken by biblical witnesses. However, there is no evidence that any Old Testament or New Testament writers were interested in debating the ethics of war. As was shown in the biblical survey undertaken on the Sanctity-of-Life Principle in Chapter 2,¹ no firm conclusion about the ethics of homicide can be considered as having biblical support. In the absence of specific guidance on the matter, some have drawn conclusions from the relatively neutral references to soldiers by John the Baptist, Jesus, and the writer of the letter to the Hebrews (Luke 3:14; Matt. 8:10; Acts 10:1ff; Heb. 11:32), but the fact that most clearly emerges from the New Testament and other early sources is that soldiering was simply one profession among many, rather than a special moral dilemma, in the apostolic age.

This should not come as a surprise, as Cadoux points out. Jews and slaves--from among the number of whom most of the earliest Christians came--were exempt from military service under Roman rule, and the few converted soldiers were hardly likely to come to a sudden realisation that their religion was in conflict with their profession.²

¹On biblical attitudes to war, see especially pp. 90-91 above.

²Cecil John Cadoux, The early church and the world: A history of the Christian attitude to pagan society down to the time of Constantine (Edinburgh: T and T Clark, 1925), p. 116

What happened in the first four centuries after the time of Christ is difficult to say, because of a lack of evidence concerning the Christian attitude to war. Some, such as Cadoux, hold that it was not long before a clear antipathy towards war began to emerge. Such historians point to one of the earliest Christian apologists, Justin, who wrote in no uncertain terms that Christians were people who had turned away from war and were now "sociable, and pray for their enemies".¹ According to Cadoux, this awareness of a conflict between the Gospel and participation in war grew in the period of the great early theologians, until the middle of the third century. St Cyprian condemned the horror of wars, writing that

homicide is a crime when individuals commit it (but) it is called a virtue when it is carried on publicly. Not the method of innocence, but the magnitude of savagery, procures impunity for crimes.²

Tertullian wrote that the fruits of truth, gentleness and justice could not imaginably be produced by the sword--rather, "deceit, harshness and injustice" were the product and the "proper business" of battles.³ Christian teaching was therefore that the adherent's duty was to be killed sooner than to kill.⁴

This commonly-held view of a uniformly pacifist early

¹Ibid., p. 273.

²Ibid., p. 405.

³Ibid., p. 404.

⁴Ibid., p. 425.

church is strongly disputed by Helgeland, Daly and Burns. They acknowledge that in this era military service was problematic for Christians, but they argue that this had nothing to do with war or pacifism. Rather, the religious aspects of Roman military life constituted the main problem. Soldiers were expected to take part in cultic procedures that were incompatible with monotheistic Christianity. They were also required to carry out savage entertainments, as well as capital punishment. It was these religious, social and civil aspects of military life that caused Christians to have conscientious problems with soldiering, according to Helgeland and his colleagues. They find no evidence to support a view that even Tertullian was a pacifist.¹

In the same period, Hippolytus included military service in his list of crafts and professions forbidden to--or at least discouraged among--Christians. Helgeland, Daly and Burns consider this to represent mainly a concern about the cultic duties of soldiers rather than their homicidal duties. They point out, for example, that secular schoolteaching is also on the forbidden list.² But Jean-Michel Hornus is convinced that Hippolytus's work is an important part of a pacifist early Christian tradition, and that antimilitarism on the basis of the wrongness of homicide was an official and unanimous attitude among the earliest Christians--an attitude that was doomed to be watered down by compromise until it withered away almost entirely in later Christian history. According to Hornus, "the basic disciplinary law

¹John Helgeland, Robert J. Daly, and J. Patout Burns, Christians and the military: the early experience, ed. Robert J. Daly (Philadelphia: Fortress Press, 1985), pp. 21-29.

²Ibid., pp. 36-37.

of the primitive church which was in force from the first years of the third century until well into the fifth century, in Rome as well as in Syria and Egypt" stipulated that:

(1) Christians and catachumens were forbidden to join the army,

(2) "anyone who had been a soldier at the time of his conversion and who is an ordinary ranker may if necessary remain one, but only on condition that he neither becomes involved in warfare nor becomes guilty of homicide",
and

(3) soldiers of higher rank must give up their positions in order to become Christians.¹

Origen was clearly an important early voice for Christian pacifism. Writing in 248 A.D., he held that Christ had "made homicide absolutely forbidden. He . . . taught that his disciples were never justified in taking such action against a man even if he were the greatest wrongdoer." At the same time, Origen was able to say (whether or not with his apologist tongue in cheek we cannot know) that Christians supported by their prayers "those who are fighting in a righteous cause."² It would appear that for Origen, at least, the Christian ideal was never to take part directly in killing. Writing shortly afterwards, Lactantius, too, was unequivocal: all kinds of killing, whether legal or illegal, were prohibited

¹Jean-Michel Hornus, It is not lawful for me to fight: Early Christian attitudes towards war, violence and the state (Scottsdale, Pennsylvania: Herald Press, 1980), pp. 161-170.

²Against Celsus, 3.8 and 8.73, quoted by Helgeland, p. 42.

were rooted in a pacifism considered basic to Christ's teachings. Alistair Kee is probably mistakenly assuming that kind of pacifism when he holds that Constantine (whom he characterises as an "anti-Christian Messiah") held an un-Christian position in regard to war:

The Constantinian reversal on violence could not have been more radical: as far as Constantine was concerned, victories of faith henceforth would not be won by shedding blood in martyrdom, but in drawing blood by the sword.¹

But with the interpretation of Helgeland, the lack of any hint of controversy over serving in Constantine's armies is no surprise. Christian soldiers would now, for the first time, be able to practise their religion freely, and refrain from pagan cult. Indeed, the Christian cross now became an imperial military emblem, and St Athanasius declared that it was not only permissible but praiseworthy to kill enemies in battle.² The last traces of official ecclesiastical hostility to military service now disappeared. Ambrose and his fellow bishops went out of their way to support the eastern emperor Theodosius in his war against the western pagan rebel Eugenius, and saw the latter's defeat as a victory of Christ.³

By the time Augustine came on the scene in the early fifth century, it was already true that, as far as most Christian leaders were concerned, to participate in war was nearly always a Christian civic duty. To one questioning this,

¹Alistair Kee, Constantine versus Christ (London: SCM Press, 1982), p. 125.

²Cadoux, pp. 588-589.

³Helgeland, pp. 74-75.

Augustine wrote:

What, indeed, is wrong with war? That people die who will eventually die anyway so that those who survive may be subdued in peace? A coward complains of this, but it does not bother religious people. No, the true evils in warfare are the desire to inflict damage, the cruelty of revenge, disquiet and implacability of spirit, the savagery of rebellion, the lust for domination, and other such things. Indeed, often enough good men are commanded by God or a lawful ruler to wage war precisely in order to punish these things in the face of violent resistance. In the course of human affairs, proper order sometimes forces the good either to command this sort of thing or to obey such a command.¹

The just war was now an idea whose time had come, and it was Augustine who was the first Christian theologian to "really work . . . his way through the whole problem of violence and war."² His just-war theories were developed by St Thomas Aquinas, and the notion became part of both Catholic and Protestant orthodoxy.³ To the content and contribution of these theories I shall return below. Here it is sufficient to note that the acceptance by mainstream Christian orthodoxy

¹Against Faustus, 22.74, quoted by Helgeland, pp. 81-82.

²Trond Bakkevig, "The doctrine on just war: relevance and applicability," Studia Theologica 37 (1983): 126.

³Participation in just wars under lawful authority is unequivocally affirmed in the (Lutheran) Augsburg Confession of 1530 (Article 16), the (Anglican) Thirty-Nine Articles of 1571 (Article 37), the (Irish Episcopal) Articles of Religion of 1615 (Article 62), and the (Presbyterian) Westminster Confession of 1647 (Article 22). Marrin (p. 94) comments that these statements place the Reformed confessions "squarely in the centre of the Catholic tradition as regards war."

of the morality of some wars marked an epoch in the history of doctrine. Nevertheless, I am inclined to accept Helgeland's view that the significance of this development should not be overstated as a reversal of an allegedly pristine Christian pacifism. In fact, the Helgeland study of the first four Christian centuries concludes that "the destruction of human life and property does not seem to have been a significant consideration for either Christian or pagan" when considering military service. Rather, Christians were ready to accept warfare as a fact of life in a sinful world, and seemingly agreed with pagans in attributing military successes to divine intervention.¹

The contributions made by Origen and others who were truly hostile to war on the grounds of the wrongness of homicide should not, however, be dismissed as mere aberrations. The history of Christian doctrine in this, as in many other fields, has not taken the form of linear development (or regression, as pacifists would prefer) from the time of Jesus to the present day. Rather, as Jacques Ellul shows, there have existed in the church almost from the beginning diverse opinions on this matter, ranging from conscientious non-violence through selective participation (in just wars) to legitimation of violence against the state. In some periods, a certain shade of opinion has been dominant and respectable within the church, only to be overshadowed by another type of thinking in a

¹Helgeland, pp. 89-90

later stage of history.¹ Ellul could be right again when he suggests that the various attitudes presumably appeal to various types of personality, although he descends to stereotypical nonsense when he seeks to characterise these personality types:

⟨Compromise on the matter of violence appeals to⟩ reasonable . . . Christians who . . . promote the values of moderation and temperance.

⟨Non-violence appeals to people who might be described as⟩ "sufferers" . . . acutely conscious of the scandalous gaps between Christian affirmation and the behaviour of our society. . . . They are marked by true charity, a spirit of sweetness, and, often, great humility.

⟨Legitimation of violence appeals to people of⟩ passionate temperament, men and women who are uncompromising, hard, incapable of dialogue or moderation.¹

Ellul clearly regards himself as falling within the second group (and one must thus smile at the reference to humility). He has no patience with the third. Thus he fails to note that historical circumstances, probably more significantly than personality types, influence the dominance of one or another mode of thought in various periods and places. To the nature of that influence I shall return later in this chapter.

Before leaving this brief historical survey, it must be noted that the pacifist option, while still not dominant, has in recent years experienced a strong revival. Since the "war to end all wars" ended in 1918 without any hope of producing a lasting peace, the appeal of non-violence

¹Jacques Ellul, Violence: Reflections from a Christian perspective, tr. Cecilia Gaul Kings (New York: The Seabury Press, 1969), pp. 23-24.

has presented an important challenge to traditional ethics. The forms in which modern theologians have given expression to the new pacifism have been dealt with at some length in Chapter 2.¹ Here, three general historical statements should be made. First, like the just-war theory, the contribution of pacifism and the legitimacy of conscientious objection to war have been accepted with varying degrees of enthusiasm within all the mainstream churches--Catholic and Protestant. While an important theological impetus has come from the historic "peace churches" (especially the Mennonites), Christian pacifists are today to be found across the board, and are gaining ground.

Second, this phenomenon is by no means found only in Christian circles. It would probably be fair to say that Christian pacifism is to an impressive extent an echo of a secular mood which is inclined to say of war and wars, "thus far and no further"--or, in the words of a 1933 Oxford Union resolution: "This house will in no circumstances fight for its king and country." As in the church, so in the world at large, however, the pacifist voice remains a minority voice, though one which commands increasing attention and respect.

Third, "the" social ethical dialogue of the current period may well eventually emerge to have been the dialogue among political radicals between pacifists on the one hand (those who seek revolutionary change by non-violent means) and those who justify violence on the other. It is that

¹See pp. 104-110 above.

dialogue which occupies this chapter, and thus it is necessary now to turn to the question of the Christian ethical attitude towards the authority of government.

3.3 The authority of the State

To recapitulate Yoder's classification above, there are not two but four possible Christian positions on war. The Christian is not confronted with a choice between a blanket rejection of war and an uncritical acceptance of all wars. Rather, there are the possibilities of sanctification (the "holy war" position), pacifism, restraint (the just-war position), and that ethical stance which regards obedience of the civil authorities as an absolute good. Since the "holy war" is now a concept associated mainly with non-Christian religions, especially Islam, and since the pacifist position has already been spelled out and criticised in Chapter 2, the present chapter will give critical attention to the third and fourth positions--beginning with the last.

It is possible to accept all the theological arguments against war, and yet argue for Christian participation in war, on the basis of a prior duty to obey lawful authority. Since relatively unconditional obedience towards lawful authority--certainly with regard to submitting to military service¹--is promoted by Catholic and Protestant authorities alike, this position cannot be lightly brushed aside.

A presumption has been established for this study to the effect that the interests of the less powerful elements within society should be given special weight in considering

¹See p. 140 above.

conflicts of duties (Presumption 2.2). This would seem to suggest that the State--which has to be numbered among the most powerful elements in any society--hardly deserves special protection in regard to moral choices regarding homicide. Indeed, where the State, in which all political power is focused, calls for the Christian to commit homicide, the effect of Presumption 2.2 should be to encourage the option of civil disobedience. The burden of proof, then rests against the argument for participation in war based on the State's prerogative. However, the issue of conscientious objection is not directly relevant here: I am concerned with the other side of the coin, the question of violence directed against the State. Presumption 2.2 is not strictly relevant to that question.

Does the Bible demand unconditional civil obedience, as some Christians appear to believe? The most frequently-cited proof text for this position is Romans 13:1-7, in which Paul, never as concerned with overturning existing cultural norms as with preparing his readers for the eschatological life "in Christ", cautions the church at Rome not to be diverted from its central concerns by unnecessary tension vis-à-vis the State. Nevertheless, Paul places firm qualifications on the State's authority in verses 3-5: "Government, a terror to crime, has no terrors for good behaviour." The obligation to submit is imposed not only by fear of punishment but by conscience. This is far from an easy passage to interpret, and while it is clear that Paul wanted the Roman Christians to avoid trouble with the authorities if possible, some exegetes have come up with radically different interpretations from

what one might expect. W. Schulze suggests that the term "God's servant" in verse 4 implies "the right to resist when the authorities exceed their God-given mandate and turn away from the clearly articulated commandments of God."¹ Certainly it cannot be forgotten that the writer of the letter, whatever he meant at the time of writing, would one day find himself in Rome, a prisoner of the civil authorities, and, according to tradition, on Death Row as a prisoner of Christian conscience.

Other Christians draw the conclusion of unconditional obedience from Jesus' "Render unto Caesar the things that are Caesar's" saying in Mark 12:13-17. Such an interpretation ignores the second part of the saying: ". . . and to God the things that are God's." If the saying has any political significance, Davies is right in insisting that it lies in Jesus' affirmation of people's duty to God as something that need not contradict their legitimate duties to the State, "and at the same time, it is implied that if there is a clash of obedience, the divine will must have priority."² In any event, the context makes it clear that Jesus' purpose was to say, in effect: "Stop trying to trip me up with such trivia: pay your taxes by all means, but obedience to God is what always comes first." Yoder has rightly pointed out that such a trick question would scarcely have been offered to Jesus "unless Jesus' repudiation of the Roman occupation were taken for granted, so that he would be expected to give

¹Quoted by Brian Brown et. al., Divine or civil obedience? (Johannesburg: Christian Institute, 1973), p. 10. For a similar argument, see Davies, pp. 46-48.

²Davies, p. 46.

an answer which would enable them to denounce him."¹ The same could also be said about the Romans 13 passage and others like it (1 Tim. 2:2-3; 1 Pet. 2:13-15): they surely would not arise at all except in the context of a perceived tension between church and state which resulted from the nature of the early Christians' beliefs and practices.

Contrary, then, to what a naive reading of certain allegedly key texts may suggest, there is no clear statement in the Canon on the relationship between church and state. Rather, certain tensions emerge. On the one hand, there is an accepted need for Christians to offer reasonable allegiance to the State. On the other, there is no shortage of evidence to show that the biblical witnesses understood God's word as hostile to such aspects of government policy as would result in injustice and oppression. No one seriously disputes that both these values are affirmed at various places in the two Testaments. Nor does anyone seriously dispute the existence in the New Testament especially of a tension between the high ethic of submission (to the spouse, to the State, to the slave-owner, to the slave, and generally to the neighbour), and the higher ethic of radical obedience of God's will.

The same ambiguity can be found in much of the Christian theological tradition. Since the patristic period, the State has frequently been seen as divinely appointed--but often in a rather negative sense, as a remedy for the human tendency to sin. Thus Irenaeus:

¹John H. Yoder, The politics of Jesus (Grand Rapids: William B. Eerdmans, 1972), p. 53.

Earthly rule has been appointed by God for the benefit of the nations . . . so that under the fear of human rule men may not eat each other up like fishes, but that, by means of the establishment of laws, they may keep down an excess of wickedness among the nations.¹

Villa-Vicencio has neatly identified a number of significant eras in the history of church-state doctrine.² The earliest years constituted "the age of the martyrs", when the radically monotheistic early Christians were confronted with an un-Christian Caesar, and thus perceived an unavoidable (and often fatal) distinction between divine and human authority. This period ended with Constantine's Edict of Milan in 312 A.D., granting freedom of worship. Suddenly Caesar was (allegedly) a Christian: the church and the State were one, and radical monotheism found itself displaced by the idea that political rule had divine authority not in the purely negative sense noted by Irenaeus, but in a most positive sense of human rulers being perceived as actually carrying out the divine will for society. When Rome was sacked in 410, St Augustine felt obliged to develop a new distinction between God and Caesar--between the city of God and the political realm. The two were not identical, he taught, but interrelated. Implicitly, the possibility now arose for the church to be critical of the State. St Thomas Aquinas built on Augustine's foundation, holding that political life was grounded in the law of nature

¹Adv. Haer 5.23.2, quoted by Davies, p. 49.

²Charles Villa-Vicencio, Between Christ and Caesar: Classic and contemporary texts on church and state (Grand Rapids: William P. Eerdmans, 1986).

and would ultimately be perfected by God's grace. Tyranny, while contrary to natural and divine law, was generally preferable to the chaos which would result from resistance.

The two-kingdoms doctrine of Augustine and Aquinas survived the Reformation, and was adopted by both Luther and Calvin who, partly because of their different historical perspectives, differed in terms of the emphasis placed on either the independence of the two realms each from the other (Luther) or the necessary submission of both realms to Christ's rule (Calvin).

The last great era in the background to modern church-state thinking is described by Villa-Vicencio as the "Radical Reformation. Here certain Protestant groups found the two kingdoms to be actually opposed to each other, leading to political ethics of nonparticipation (the Anabaptists), reform (the English Puritans), or even rebellion (the Scottish Presbyterians).

When one looks at the modern church through the spectacles provided by the historical perspective, one can see that all these doctrines and more are presently being followed by various Christians around the world. For some, religion and politics are separate, independent realms, while for others the church has a mission to change the political order. For others still, Christians are called to withdraw entirely from the political order and provide an alternative community, while for yet another group the Gospel demands revolutionary change.

But one option has almost entirely disappeared from modern Christian theology. This is the unconditional civil obedience associated with the Constantinian era. The interests

of Christ and Caesar are no longer perceived to be necessarily identical. In relatively free and relatively just societies, most Christians understand good citizenship to involve a generally obedient attitude towards legislation and law enforcement. In other, less free and less just societies, there are pressing moral issues which seem to outweigh the general desirability of civil obedience under certain circumstances. Where tyranny is being resisted by Christians, not the edicts of the State but the revolution is seen to be God's will.

Not suprisingly, in view of his total separation of the civil and religious realms, Martin Luther totally ruled out the revolutionary option. Marrin has summarised Luther's view on this matter as follows:

When oppressed, the Christian had no alternative but to pray and hope for better times. If they came, fine; but if not, God's will be done. The Christian's motto, Luther affirmed, must be Leiden, leiden, Kreuz, kreuz, ist der Christen Recht: das und kein anderes! ("Suffering, suffering, cross, cross; there is nothing else in the Christian law.")¹

In his Harsh book against the peasants, Luther urged the German princes--to whom, modern scholars agree, Luther was loyal beyond his own best theological instincts--to "smite, slay and stab, secretly and openly" the "mad dog" revolting peasants. The revolt accordingly crushed, Luther was accused of encouraging brutality, and he defended himself with a statement on rebellion's inherent injustice. There was no question of mercy here, he argued. The peasants had not been interested in mercy, but in "raging, smiting, robbing, burning and plundering" for "rights, rights, rights". What

¹Marrin, p. 101.

follows is of crucial relevance to the theological question of the authority of the State. Mercy, says Luther, is a scriptural message to the kingdom of God, but not to the kingdom of the world:

It is a Christian's duty not only to be merciful, but also to endure every kind of suffering--robbery, arson, murder, devil, and hell. It goes without saying that he is not to strike, kill, or take revenge on anyone. But the kingdom of the world, which is nothing else than the servant of God's wrath upon the wicked and is a real precursor of hell and everlasting death, should not be merciful, but strict, severe, and wrathful in fulfillings its work and duty.¹

This classical Lutheran two-kingdoms argument is the crudely-stated but logical basis for the point of view still held by many Christians that even an unjust government must be offered respect and obedience by Christians. It is not the Constantinian position that identifies the government's interests with those of God, but rather a position which distinguishes between the parameters and possibilities of the divine will in the kingdom of heaven on the one hand and in earthly society on the other. To the modern question of whom should be obeyed when the will of the State appears to be in conflict with the divine will, Luther would have said: "Nonsense! How can you speak of God's will in the kingdom of the world? The State is God's agent in this evil kingdom, and that is the only will we can know!"

It is useless to speculate on what Luther's reaction

¹"An open letter on the Harsh book against the peasants" in The works of Martin Luther, vol. 47 (Philadelphia: Fortress Press, 1967), quoted by Marrin, War, pp. 103-104.

would have been to seeing how useful his doctrine was to the "German Christian" Lutherans in Hitler's day. But Bonhoeffer and his fellow "Confessing Christians", while following Lutheran doctrine in other areas, moved away from the two-kingdoms idea and held that the church's task vis-à-vis totalitarianism is not one of self-preservation but one of radical obedience to God. This remains the important question to be settled in regard to the theology of rebellion, whether violent or non-violent.¹ Though the two-kingdoms notion is helpful in pointing to the tension between ideal and actual, divine and temporal, history has convinced many Christian believers that it is possible for the State to be in rebellion against God, and that when that judgement is made, the unavoidable consequence for a Christian in that situation is to obey God and disobey the State.

In my view, the matter of the State's authority has been sufficiently clarified by theology to allow for the possibility of rebellion. The authority of the State is not an evil per se, but it is also not an absolute good. Rather, Christians should offer allegiance to government, in the interests of order and peace, as a matter of principle, but not in an absolute sense. Where the State does not serve but subverts justice and peace in a serious way, Christians are called upon to consider whether or not, in the terminology preferred by Barth, a Grenzfall has not arisen which calls for radical obedience of God rather than normal civil obedience.

Could this obedience involve violent revolution? This

¹Turner, p. 149.

is a question never considered by Barth, and seldom considered in mainstream Protestant or Catholic orthodoxies. However, it is a question that is enlightened by the broader issue of the morality of war, to the orthodox theology of which it is now time to turn.

3.4 The just-war theory

To speak of a just war--or of just revolutions--is to speak of justified homicides on a grand scale. There is an impressive Christian tradition which does precisely that. It was created first by St Augustine (based on the ideas of the fourth-century bishop, Ambrose) and developed in detail by St Thomas Aquinas.

Aquinas proposed three elements of the just war. In other words, three criteria must be met if a war is to be considered just (and thus something participated in by a Christian). First, the war must be waged by the authority of the sovereign to whom care of the commonweal is committed. Second, it must be waged with just cause: here, Aquinas cites Augustine's assertion that a just war is one which avenges wrongs. And third, the war must be waged with the right intention, which is always to promote good and avoid evil. Once again, St Augustine is cited, in a passage quoted in Chapter 2 above: the intention of a just war is always to achieve peace.¹

The theory has undergone great development since the time of Aquinas, and it has become part not only of Catholic

¹St Thomas Aquinas, Summa Theologiae, 2a2ae (London: Blackfriars, 1975), p. 83.

but also of Protestant orthodoxy. (The latter, especially influenced by the two-kingdoms doctrine, has tended to place special emphasis on the authority of the State to require a citizen's participation in war.) According to Yoder¹, the theory was too seldom stated with consistent elements to suggest a standard form, but five criteria were common to most medieval versions. These five criteria are also the ones that appear most often in modern restatements of the just-war idea. They are:

- (a) INTENTION. The violence must be transitional, and always a means to peace.
- (b) JUST CAUSE. The war must be waged over a significant issue, rather than out of arbitrary whim or mere vengeance.
- (c) LEGITIMATE AUTHORITY. Not the private citizen, nor the church, but only the government may initiate a just war.
- (d) JUST MEANS. The means of war should be in proportion to the cause. The damage done should be no greater than the damage to be prevented or righted. As an exception to the general immorality of killing, war does not nullify all morality. So, for example, to lie or steal or ravage in war is wrong.
- (e) MOTIVATION. The inner motivation for waging war is also to be scrutinised (as one might expect of an age in which the Confessional was the

¹Yoder, Critical evaluation, pp. 5-7.

in for a fellow clergyperson in conducting a "chaplain's period" for Anglican national servicemen in a South African army camp. I asked this group of young white men: "How do you justify killing other young South Africans in the civil war you are being trained to fight?" I did not record or write down their answers verbatim, but the following is a summary of what I recalled later:

- (a) "It is the only way to maintain order (or peace, or stability) in this country."
- (b) "The terrorists started it. They are killing innocent people. They threaten us and our families."
- (c) "Our government has ordered us to do it, and we must obey."
- (d) "We are only defending our borders. Unlike the terrorists, we don't commit atrocities. In fact, while we are fighting we are building up the educational and health services in the operational areas."
- (e) "This is a war for Christianity against communism, and communism is the Antichrist."

In the order in which I have arranged them, these arguments (the truth or fallaciousness of each of which is not of concern here) tally exactly with the medieval formulation summarised above.

Not only from the point of view of those fighting on the side of a government, but also in the case of rebels, these criteria are not far from the common mind. Robert C. Freysinger has shown that "modern Christian rebels have self-consciously borrowed from the logic of the traditional just-war theory when trying to come to grips with their

own participation in political violence." "Just cause" is identified in institutional--or overt--violence on the part of the regime: enforced ignorance, malnutrition, centralisation of power and wealth, and so on. The "intention" of revolutionary violence is greater justice and shared access to power and wealth. The "motivation" often embraces the love of God by, and for, the poor and oppressed. And "just means" and "legitimate authority" become--as they arguably must always become in the modern age--ethical questions, rather than statements.¹

Nor are these modern radicals guilty of an arbitrary hermeneutical leap in appropriating just-war theory to the revolutionary cause. Yoder tells how Aquinas left open the possibility of "non-seditious rebellion against immoral authority". According to Davies, the theory has been applied to civil or internal war since the sixteenth century:

Rebellion against a tyrant was regarded as justified whenever it fulfilled at least three of the requirements of a just war. It had to be undertaken at the command of a legitimate authority, it had to have a just cause, and its means were to be just. In effect, the first of these conditions was variously interpreted. . . . Calvin, for example, defended legitimate authority as the magistracy, while John Knox declared that every

¹Robert Charles Freysinger, "The problems of resistance of the contemporary Christian radical movement" (Ph.D. dissertation, University of Massachusetts, 1977), pp. 143-156.

²Yoder, Critical evaluation, p. 12.

citizen had the right to instigate an uprising against an unjust government.¹

Davies goes on to apply traditional just-war criteria in an attempt to specify the circumstances under which a contemporary revolution might be justified. He suggests that legitimate authority reverts to the people when a government "behaves in a totally unjust manner", and this authority can be enjoyed by a resistance movement which has "the confidence of a sizeable proportion of the people." Just cause is found in governmental tyranny, societal failure and large-scale violence against the oppressed. The intention or goals of the revolution must be not only to suppress disorder and evil but also to "ensure peaceful conditions in which what is good and righteous may flourish." Moreover just means must be used: force must not go unrestrained, and such acts as terrorist bombings, torture and hijackings are unjustifiable, as well as being probably counterproductive. Using other medieval criteria, Davies insists upon violence being the last resort, and says there must be a prospect of likely success--both of which are central concepts in the modern debate, to which I shall return later in this chapter.

The problem with the just-war theory, then, is not that it is out of date, nor that it cannot be adapted and applied to modern situations like revolutionary warfare. The theory has been found helpful by those justifying violence in a wide variety of situations right up to the present time. In my opinion, the main trouble with the doctrine lies precisely in that it is discovered to be so helpful by those seeking

¹Davies, p. 167.

to justify their actions (either in participating in or in refusing to participate in a given conflict). The purpose of the theory is not to justify decisions already taken, but to help Christians resolve moral dilemmas. It seems to me that each of the various criteria is simply unable to fulfill that lofty purpose, for the following reasons.

- (a) INTENTION. It is doubtful that war can be fairly described as an effective means to peace, or justice, or true stability. This is so because of the inherent long-term and short-term consequences of violence (a topic to which I shall return towards the end of this chapter). In the South African context, as even military leaders admit, the solution to the country's problems will be not military solutions but political ones. It is even possible that having a strong army (and/or a strong revolutionary force) in the field actually provides reason to delay the serious search for political solutions. There is no reason to think this situation is unique to South Africa, but every reason to think that war is often too easily grasped at as the remedy to a problem, rather than truly as a last resort.
- (b) JUST CAUSE. Here again, the question is whether the likely results of war will be to replace present conditions with better conditions (only if the answer is yes will the condition

of proportionality be satisfied). To focus attention on on the present horrors (of oppression) may be too simple a way of justifying the future horrors of war. As Yoder asks, is it possible to measure evil quantitatively?¹ The cause for war is seldom so destructive as war itself--or, at least, such calculations are too imponderable to be helpful in resolving a dilemma in a situation.

- (c) LEGITIMATE AUTHORITY. It was easier in the Middle Ages than today to make unambiguous statements about legitimacy. In those days, no one had sufficient historical perspective for comparison. Today one must ask a number of questions that are probably impossible to answer objectively. What constitutes legitimate authority? In how many countries today are governments democratically elected--and why should democratic election necessarily provide sufficient legitimacy for homicides on a grand scale? On the other hand, does any government which is not democratically elected automatically fail the test of legitimacy, and thus not only lose its right to declare a just war but also become an object for a just revolution? Legitimacy could be described as the extent to which a government or movement represents

¹Yoder, Critical evaluation, p. 8.

the general will of the people, but how is the general will to be ascertained? Will a Gallup poll do the trick? And finally: should the general will of one people justify an attempt to decide the fate of another nation --as always happens when a nation goes to war?

- (d) JUST MEANS. This is the most problematic element of all--especially when the matter of war is appreciated from the proper perspective of the ethics of homicide. Wars can be waged with the best of intentions, causes and legitimacy of authority, and perhaps even motivation, but war is war, and people at war behave abominably. As I have noted earlier, people do consider that all is fair, and just, in war, if it leads to victory, and it is difficult to imagine a war in which this were not the prevailing mindset.

The inevitable homicidal and other horrors attached to war are a central feature in many modern people's objections to war. Davies, however, puts up a powerful argument against this type of objection. He insists that the very worst thing Christian morality can do is to write off all wars because of distaste for the methods involved. The result would be the opposite of that intended: the view would be promoted among those who feel obliged

to use violence that since all means are reprehensible, all means are equally justifiable in a necessary conflict:

Although ends, to a certain extent, justify means, they do not, pace certain Marxists, justify any means. Morality does not go on holiday when armed conflict breaks out. To engage in a revolution is not to say that anything goes. Force may be called for, if there is just cause, e.g. defence of neighbour, but the elementary rules of humanity have to be observed. Even in the very act of using force, (force itself) must be questioned . . .

Consequently, it should be recognised that there has to be a proportionality of means to end and also a discrimination between means. If force is allowed to go unrestrained, it can go beyond its specific military purposes.¹

"Force may be called for . . . but the elementary rules of humanity have to be observed." Therein lies the fallacy in Davies's use of the just-war concept. Not only is there a natural and inevitable tendency not to observe the "elementary rules of humanity" in a war situation (or at least, not in respect of the enemy) but one wonders what these elementary rules can possibly be if they do not include a rule against wholesale homicide. Later on in this chapter, I shall concede the force

¹Davies, pp. 173-174.

of an argument that says there is "no space" left in which to argue about violence and non-violence in some situations, such as South Africa today. But if that is true, it is even more true that when a group has actually turned to large-scale violence, there is little "space" left indeed in which to debate just means! Rage, when finally turned loose after much repression, does not stop at acts which break Davies's "elementary rules". Such acts include not only premeditated actions like those Davies condemns (urban bombings, hijackings) but also spontaneous, uncontrollable outpourings of revenge upon those who (with or without truth) are identified as collaborators or perpetrators of systemic injustice. It has to be baldly stated: revolutions are not conducted only by calculating, well-disciplined cadres, but also by enraged mobs. And once turned loose and allowed to fight their wars, neither military leaders nor angry crowds (nor even, as I have indicated above, the stately Lords of Britain) have tended to show much patience with debating the justice or injustice of the available means to achieving victory.

- (e) MOTIVATION. Here one is confronted with a question well outside of the sphere of the calculable. The inner motivation or true goals which lie behind any action are out

of the critic's reach (and often unfathomable even to the actor). One may assume the best, or assume the worst, but beyond assumptions one cannot assess the morality of participating in wars on the basis of imponderables.

The medieval just-war criteria arose out of the best of intentions on the part of the scholars who developed them. The criteria served a useful purpose in the history of social ethics. They opened the way for Christians to discriminate between wars. Before the just-war theory, the Christian was either a pacifist or one who participated uncritically in all wars waged by the people of his or her community. Now there was a third option of critical reflection. That option--to reflect critically on the nature of a war in order to decide about participating in it--remains the prevailing one for modern Christians. But I doubt that the actual criteria of the just-war theories proposed in various forms were ever very useful as a tool of analysis before the fact of moral decisions. Probably the answers to all the questions were always largely instinctive: YES in regard to wars waged by a group to which one owed loyalty; NO in regard to wars waged by the enemy.

As is true in most modern studies, I shall not, therefore, attempt to answer the traditional just-war questions in terms of the justifiability of revolutionary violence. Instead, I shall proceed directly to attempt an analysis of the concrete, contemporary arguments for Christian participation in revolutionary violence, weighing

these arguments against the methodological presumptions I have identified concerning the sanctity of life.

3.5 Assessing the act of revolution

The broad thrust of the Sanctity-of-Life Principle has given rise to the primary presumption of this thesis: that the burden of proof must weigh against the moral justification of homicide. In other words, those who would justify an act of homicide must prove that the act is likely to result in the greater good. I have shown that the traditional just-war questions are unhelpful as a means of justifying any kind of war, and that includes the revolutionary type of conflict. There are, however, other types of argument available to those who justify revolutionary violence, and these must now be assessed. Some of these arguments have their roots in the traditional just-war formulations, but are expressed in different ways, and ways which are less open to sweeping rejection.

An appropriate starting point is that form of legitimation which is encountered perhaps most frequently today. This is the argument that justifies violence in a particular situation by stating that non-violent means have been tried, and have failed, and that violence is the only recourse left for the people to gain justice. Certain theoretical difficulties are associated with this form of argument, and need to be considered carefully. Following these considerations, I shall address the debate between revolutionaries and radical pacifists concerning violent and non-violent means of revolution. Finally, I shall move on to the utilitarian task of assessing the chances

- * necessity (violence as the only means available),
- * the immorality of the regime (making opposing acts morally right), and
- * the need to destroy the present political regime.

Rather more simply, Swomley¹ cites Eric Fromm's identification of two broad types of revolutionary violence:

- * reactive violence (in which those threatened are willing to kill and destroy in order to protect themselves and their group), and
- * revengeful violence (in which specifically the lower-middle class is the focus of desire for vengeance, whether along racial or nationalist lines).

However the types of argument for revolutionary violence may be classified, there are clearly two important themes. First, there is the element of reaction. The oppressed do not initiate violence but respond to it with the only means available to them. And second, there is the desire for change. Revolution is seldom if ever simply a matter of wanting to "do to others as they have done to you".² Rather, there is a real need to remove the prevailing political and/or economic powers and replace them with something better.³

It is essential to recognise the agony out of which

¹John M. Swomley, Jr., Liberation ethics (New York: Macmillan, 1972), p. 169.

²Ibid., p. 177 (see especially the Malcolm X quotation on that page).

³Note how the two quotations on page 166 above illustrate these two elements of reaction and change.

reaction to oppression and desire for change lead some to argue for the necessity of violence. Surely there is an intuitive quality about the "violence of the poor"--a sacrificial quality, and a tinge of desperation--which distinguishes it from the violence of regimes in defence of their power. However, the presumptions of this thesis make it necessary that this intuitive respect for the motives behind revolutionary violence be subjected to critical analysis of the same seriousness as would be the case for any other justification of homicide. In the remainder of this section, I shall address certain theoretical problems associated with the "when all else fails" type of argument. Hopefully, within all the "cold" assessments which will need to be undertaken in this section and the following ones, the pain which underlies the adoption of violence by the poor will be remembered, and taken account of.¹

However, it must also be noted that two other themes

¹It is also worth mentioning--because these days it is often forgotten--that the violent overthrow of gross oppression is a right and duty defended not only by revolutionaries of the far left but also by conservative and traditional sources, such as the American Declaration of Independence. The same elements of reaction and desire for change are present in that document, as witness the following quotation:

. . . All experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms (of government) to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a desire to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security.

which are essential for an ethic of violence are usually missing from revolutionary rhetoric. The first is the element of counting the cost of violence. There is, in fact, frequently an awareness of the blood of the activists which will be spilled in the cause of justice, but usually not of the deaths and suffering which will inevitably occur among the masses of people as a whole, not only during the period of uprising but afterwards, as the spiral of violence continues. (I shall return to this point.)

The second missing element is any attempt to justify homicide morally. This is true of all the arguments cited in works referred to in this thesis. The arguments speak of "violence" and "liberation", not of "killing". For example, Fanon's book¹, which is entirely devoted to a defence of revolutionary violence, is almost totally concerned with the evils of colonialism, and never once speaks about the reality of killing people.

The reactive element and the desire for change seem, then, to blind some revolutionary leaders to both the practical consequences of reactive violence and the moral problem concerning homicide. This must be considered significant when the arguments used focus precisely on the immorality of those who are responsible for oppressive or institutional violence.

Perhaps, after all, violence is seldom if ever a self-consciously moral act, even if the language of

¹Frantz Fanon, Towards the African revolution: Political essays (New York: Monthly Review Press, 1967).

morality is used to rationalise it. Perhaps violence is rather a pre-rational expression of anger and despair. No ethical treatise could do anything towards avoiding or affecting that! Indeed, can one not hear the frustration and despair which is shrieked by that pervasive phrase, "when all else fails . . ."? It is a cry not from the mind, source of moral reflection, but from the heart.

That cry rings out in many Christian responses to revolutionary situations. A 1966 conference, ~~convened~~ in Geneva by the World Council of Churches, held that while non-violence was always to be preferred, violence was a reality, and responsive violence was justified as an "ultimate recourse" in extreme situations. "When all else fails" was also the position taken by the World Council's Notting Hill consultation on racism in 1969.¹ In his last letter to the Colombians, Camillo Torres wrote that the people knew that all democratic and legal recourse had been exhausted: there was no option but to prepare for the armed struggle.² The Bishop of Crateus in Brazil, Mgr Fragoso, was quoted in 1970³ as calling for dialogue, but recognising that at times, when dialogue has produced nothing, "violence is the only way of liberating man from an established, permanent and grievous violence."

The problem with this line of argument--for all

¹See Gill, *passim*.

²When all else fails, p. 223.

³*Ibid.*, pp. 50-51.

its intuitive force for those who see or feel the evil in oppressive systems--is that it is impossible to test it. As Yoder has pointed out, Barth himself failed in his writings to test this requirement for a Grenzfall in regard to the war of his own day, the Second World War (which he justified from the Allied viewpoint as a Grenzfall).¹ And how can one ever say without fear of contradiction that the hour has come, nothing else will work, another day of waiting would be wasted, the time for negotiation and protest and sanctions and strikes is over: now is the hour for using bullets. It is, in a way, a self-fulfilling argument, because once the war has begun there is indeed no more place for non-violence, and no hope of a relatively peaceful settlement.

One difficulty with the last-resort argument, then, is the difficulty of identifying the time when alternative methods can be accurately said to have finally and totally failed. Broadly speaking, that is a problem that exists with all teleology: the difficulty of foreseeing what tomorrow will hold if the present strategy is maintained, and what it will hold if a new strategy is tried. To that enormous problem of ignorance of the future, I shall return below. Meanwhile, there are other significant obstacles standing in the way of the last-resort argument.

Apart from the driving force of this thesis's primary presumption (for the preservation of life), there is

¹Maeng Yong Gil, The command of God: A study of Karl Barth's theological ethics (Ph.D. thesis, Emory University, 1974), p. 213.

also a secondary presumption (number 2.1) that makes it critically important to subject the last-resort argument to scrupulous analysis. I refer to the burden of proof which weighs against all acts of homicide which are carried out in the interests of the actors themselves. Though it is, perhaps, a little distasteful to mention it, when the oppressed rise up to take power they are acting in their own interests rather than in the interests of a third party. For this reason, those impatient with slow progress towards achieving their own rights, which they see as fundamental and for which they yearn with self-evident passion, are not likely to form a disinterested impression on whether "all else" has failed--or even been attempted. The question here is: who decides that all else has indeed failed? Obviously, the answer is always that those decide who are considering for themselves the adoption of the violent alternative. And the problem raised by that answer is that they are in a poor position to undertake the kind of analysis needed to make such a decision, because of the very pain and passion out of which they feel drawn towards it. So the last-resort argument, however appealing it may be, is to some extent a surrender of morality to emotive factors which may or may not have anything to do with morality at all.

In a courageous and forthright paper already cited, Frank Chikane persuasively turns the latter problem on its head. Yes, he says, the poor in South Africa are in no position to make moral decisions about violence. In fact, they are in no position even to indulge in the

moral debate concerning violence and non-violence, because there is no longer any "space" available to them in which the debate can take place. This is so for three reasons.

First, the violence/non-violence debate cannot take place among participants in a war. To be able to have the space to indulge in such a debate is a "state of privilege: in fact the people in the townships consider it a luxury that they have been deprived of."

Second, the space which some do find for engaging in arguments about violence is of necessity a space created by violence:

Most white people in South Africa, and some privileged blacks . . . express their abhorrence of violence in general as if they were not involved in violence themselves. The fact of the matter is that this class of people is "protected" by violence (that is, by the power of the security forces), and without this "protection" they would not be able to engage in any debate about violence and nonviolence. While they are debating, the security forces are "protecting" them . . . : this is a privilege the ordinary person in Soweto does not have.

Third, Chikane holds that for the oppressed people of South Africa the space for debate of this kind has been eliminated by law. Meetings are prohibited, discussions about non-violent strategies are outlawed, peaceful protests and most strikes and boycotts are forbidden by law. "Hit squads" and vigilantes join security forces in creating war zones in the townships, leaving no space for the violence/non-violence debate. "Faced with this reality," Chikane comments, "one can either run for one's life or fight back to defend oneself."

The force of Chikane's argument on this lack of debating space has to be conceded.¹ For the person who is utterly downtrodden and embittered, the discussion about violence is an irrelevancy of the first order. But precisely for that reason, the discussion about violence does not, on the whole, take place among such persons. It takes place where other people, who do feel they have a certain amount of space within which to decide (however that space may have been created), are agonising about their role in, and response to, the revolutionary situation. It is in his perception of this debate where it is to be found (rather than where some would wish it to be found: among those who, in despair and uncontrollable rage, turn to killing because they indeed have no space in which to think about that any longer, no alternative means of expressing their anger and aspirations), that Chikane's arguments are faulty. He is at his bluntest when he discusses the legitimacy of the State, a legitimacy he apparently thinks is recognised by those who advocate non-violence. Here he states explicitly the hermeneutic suspicion which up to this point in his paper he has

¹Chikane's paper, incidentally, provides an excellent example of what I have referred to in numerous places above: the reluctance of those who defend homicide in the "grey areas" to confront the issue of homicide head-on. In a paper devoted to defending those who are forced to turn to violence, he never once uses words like "kill", "homicide", "death", "injury", and so on. He is understandably more comfortable with blander phrases like "armed struggle", "violent means", "self-defence", and the like.

only hinted at: his suspicion that a privileged person's ideas about such things as violence and non-violence are necessarily the product of, and entirely reflect the interests of, privilege:

Someone who starts from the heat of the struggle in Soweto will always come to a different conclusion from someone who starts from the luxury of a privileged suburb of Johannesburg. As Leonardo Bolt has said, they will perceive reality in a way that corresponds to their social condition or class.

In pursuing this line of argument, Chikane echoes the thinking of certain practitioners of the sociology of knowledge, especially Karl Mannheim. Mannheim held that the situation of a group necessarily determines the political and economic ideologies that arise in the history of that group. Ideas, he said, are socially influenced not only in their form but in their content.¹ More moderate sociologists of knowledge, like Weber and Scheler, believed that Marx and Mannheim erred in identifying the origin of ideas definitively with the interests of social classes. All these moderates would concede was that social realities (including class interests) influence the conditions under which ideas make their appearance in history, and meet with some degree of social acceptability

¹Karl Mannheim, Essays in the sociology of knowledge (London: Routledge and Kegan Paul, 1952), pp. 134-190; cf. Jacques Maquet, The sociology of knowledge: Its structure and its relation to the philosophy of knowledge: A critical analysis of the systems of Karl Mannheim and Pitrim A. Sorokin (Westport, Connecticut: Greenwood Press, 1973), ch. 3.

within a certain grouping or groupings. Thus, for example, Weber set out to prove that the ideologies of Protestantism and Communism were not products of, but rather found a "home" within, the proletariat and capitalist classes respectively.¹

Just how such ideas take shape is beyond the scope of the present study.² What is important here is the demonstrable truth that people with ideas can and do move among social groupings. Neither Marx nor Engels, for example, were members of the proletariat. Rather, they found a home for their ideas--and for themselves--in the workers' movement. So an ideology may take root in a social grouping that is "ready" for it or "needs" it, notwithstanding that its origins may lie outside of that grouping. Maquet, criticising Mannheim, correctly points out that a clear affinity between an idea and the interests of a particular social class "is not equivalent to a necessary and sufficient condition" for that idea to spring to life and develop. It is valid to posit social reality X as "one of the factors" underlying idea Y, but "we must call in other factors" if the extrinsic context is to be complete. These other factors include both socio-psychological elements and factors immanent

¹Werner Stark, The sociology of knowledge: An essay in aid of a deeper understanding of the history of ideas (London: Routledge and Kegan Paul, 1958), pp. 246-272.

²See *ibid.*, and: P.L. Berger and T. Luckmann, The social construction of reality: A treatise in the sociology of knowledge (London: Penguin, 1971).

within the idea itself.¹ Moreover, as Stark insists, ideas can influence institutions: it is not always the other way around.²

Thus the social context does not necessarily determine ideas, but may well be a factor in the formation of ideas--a factor which the holder of ideas should be willing to recognise. Mannheim himself argued that by recognising his or her perspectives a thinker can attain some measure of objectivity.³ Certainly it is only to the extent that one recognises the interests of one's milieu that one can be somewhat critical of--or at least detached from--the theoretical frameworks popular within that milieu. Knowledge is always knowledge within a social position, but it remains possible for this knowledge to reflect truth in some measure. Though the social context is relevant to the nature of an idea, the idea has to be debated and analysed with no less vigour than any other idea if its true worth is to be assessed, rather than simply being dismissed because it may seem to promote the interests of a particular social grouping.⁴

Thus it is one thing for Chikane and others to show

¹Maquet, p. 55.

²Stark, p. 244.

³Mannheim, p. 266.

⁴The epistemological debate on the concept of truth is furious, fascinating and complex, but not strictly relevant here. Stark, pp. 323-346, provides a good summary.

that it is naive to expect a rational and ethical discussion of violence among those who, out of frustration and despair, are led to striking back at their oppressors. But it is another thing entirely to suggest that because some do find "space" for agonising over whether or not to kill in the cause of justice, that privilege necessarily determines and therefore invalidates the moral conclusions that will be drawn in that context. As members of the bourgeoisie, Marx and Engels were privileged to have the space in which to reflect on the class struggle. The products of their reflections, however, neither promoted the interests of their class nor found a home within it. Similar comments could be made about the lawyer Gandhi and the preacher Martin Luther King, Jr. The violence/non-violence debate cannot be wished away any more than can injustice and war: the debate is important simply because it involves people--people who do have the freedom and capacity, and therefore the responsibility, to pursue it; people who are faced with a choice to make about homicide, and cannot evade the choice one way or another.

Having said all this, however, it must be acknowledged that in principle, there must come a time when "all else" has failed, and the perception of this failure is not limited to those who are for any reason predisposed to recognise the failure of non-violent strategies. In that situation, assuming that the regime's oppressive acts are causing appreciably more suffering than would any likely consequences of revolution, it is hard to deny that some killings would be justified. The broad

force of the last-resort theory has to be accepted. But the caveats noted in accepting this principle require close attention. Before the burdens of proof operating against all homicide--and especially against homicide in the interests of the self--can be satisfied, certain essential questions have to be answered. Above all, as I have shown, the lingering doubt has to be resolved over whether indeed homicide is the last resort (that is, have non-violent strategies indeed been seriously tried, and failed?). Moreover, the matter of proportion (the extent of the present suffering over against the likely extent of suffering caused by the revolutionary violence) must be addressed.

A further question that has to be faced is the extent to which violence may actually be attractive to human beings. If there are inherent attractions in violence, then people would be prone to say that "all else has failed" long before much else has truly been tried. The use of the last-resort argument to justify violence would then have to be regarded with particular suspicion.

Rollo May, a psychoanalyst, points out that the "attractive, alluring and fascinating" elements of violence tend to be overlooked. It is uncomfortable to become conscious of the fact that people tend to be fascinated by violence, and get an emotional charge out of witnessing or participating in such acts. Thus, May suggests, those involved in any kind of rebellion (he tends to draw his illustrations from campus uprisings at American colleges) tend to find ways of extending the life of the rebellion even once the original aims have been achieved:

For many, the goal of the rebellion now becomes the ecstasy itself rather than the original conditions. The rebellion has become the high point in the lives of many of the rebels, and they seem dimly aware that they'll never have that much sense of significance again.¹

The seductive elements of violence and war, says May, include the exhilaration of extreme danger, the unique comradeship of the ranks, and the luxury of being a member of an organisation which relieves a person of individual responsibility and guilt.²

One can certainly recognise some truth in May's observations, though it must be recognised that he seems to draw more on his own observations of classic literature and of college rebellions than on any psychological research among soldiers and revolutionaries. Television footage and eye-witness accounts of mobs turning on and burning alive supposed collaborators lend some weight to May's use of the word "ecstasy" in this context. But he may also have made the mistake of identifying as attractions of violence some of the factors that would apply to any corporate action in a great cause--whether violent or non-violent. The rewards of camaraderie and the exhilaration of taking great risks are also experienced by those who get involved in non-violent confrontations.. It is revealing that May's chapter on this subject closes with a reference to the "boredom" experienced by some who return to civilian

¹May, p. 169.

²Ibid., pp. 172-178.

life after participation in wars.¹ That phenomenon is by no means confined to those who have known violence.² May's error in identifying certain ecstasies as attractions specifically of violence is not a particularly serious mistake in the context of his book, which is more concerned with the use of power in general than especially about violence. But it would probably be a serious mistake for this thesis to lay too much emphasis on the attractiveness of violence in exploring the way in which, and reasons for which, people turn to homicide in the revolutionary setting.

The overall thrust of May's book is, however, valid and relevant. May, who is somewhat more concerned with the individual's psychological reasons for recourse to violence than with group violence as such, argues that violence is both inevitable and desirable when one is otherwise unable to escape powerlessness. If a person (or group) is denied "the power to be", or freedom to be significant, that person needs to seek what is denied him or her, by means of self-affirmation. If self-affirmation fails, self-assertion, building to aggression, may be

¹May, pp. 178-179.

²I am irresistably tempted to mention in this regard my own experience as one presently living in free, but politically dull and undemanding, Canada, after having dealt with vital issues and taken some risks in playing a small role in South Africa's anti-apartheid opposition--even though that role was totally non-violent. Life often seems dull, and I yearn for the risky challenges of times past.

necessary. And "if the other phases of behavior are blocked, then explosion into violence may be the only way individuals or groups can get release from unbearable tension and achieve a sense of significance."¹ Here May is expressing in psychological terms precisely what is expressed politically or ethically as the necessity for violence "when all else fails". The psychological principle seems irrefutable. May points out how the well-meaning observer will smile when a woman who has been dominated and submissive all her life breaks free in an overflowing of rage. This is a "life-giving" form of violence in which suppressed emotions are finally released.² Violence in moderation can be good for you! Whether violence as a group exercise can be as cleansing for a nation--and whether it is a medicine that can possibly be taken in a limited dose--is the question to be faced in the rest of this chapter. Firstly, however, the "all else", the possible alternatives to violence as a means to overcome tyranny, must be assessed.

(2) Violence and non-violence

Against the arguments of "impossible", "impractical", "unfeasible" and "when all else fails", the voice of Mahondas Gandhi rings out. Gandhi turned these arguments around. It was violence, he said, that was the impractical means of achieving good ends, because the inevitable consequence of violence was incalculable suffering.

¹May, p. 44.

²Ibid., pp. 191-195.

In contrast, according to Gandhi's argument, non-violent resistance destroys evil by converting the evildoer. The choice is not violence versus cowardice (Gandhi said he preferred the former!), but between the crude response of violence and punishment, on the one hand, and the superior response of non-violence and forgiveness. In Satiyagraha, weapons and armed force are not aids but hindrances. Instead, the power of the soul is expressed, to pit against tyranny not merely the body but the whole person. The result is that instead of a momentary triumph, an enduring victory can be won.¹

Perhaps Gandhi could be scoffed at as a spiritualiser and a starry-eyed idealist if it were not for the apparent success of Satiyagraha in liberating India from colonial rule. As it is, the force of non-violence has, at least since that epochal event, become a matter to be reckoned with by advocates of violent revolution.

Some point to more recent successes for non-violent revolutionary strategies, though these cannot be described as well-documented. I have heard a veteran of Malawi's anti-colonialist struggle speak of the pacifist strategies adopted there, and there have been short-term victories in non-violent battles fought by peace activists in Europe and America. The 1986 overthrow of the Marcos regime in the Phillipines was the result of an intense, and largely non-violent, struggle, but the significance of

¹Mahondas K. Gandhi, Young India (Madras: S. Ganesan, 1922); see also Marrin, pp. 216-220.

this may be exaggerated. Eknath Easwaran, a disciple of Gandhi, thinks of the Phillipines' "people power" revolution less as an example of the potency of non-violence than as a successful non-violent action which has provided an opportunity for the development of non-violence as such. This point is an example of what I pointed to earlier in this chapter: the fact that for the advocates of non-violence, the term denotes not a negative thing--the absence of violence--but something rather more spiritual or even mystical. Easwaran explains that Gandhian non-violence is more than an event or a strategy: it is a way of life. Non-violent actions can produce "impressive short-term gains", but in the end they fail if non-violence is not rightly understood and properly prepared for. This is a painstaking process. According to Easwaran, Gandhi spent far more time "teaching us the disciplines of non-violence than leading us in non-violent campaigns", and "often, it seemed, Gandhi chastised us more than he did our oppressors".¹ For Gandhi and his disciples, non-violence is seemingly more a religious than a political matter, and whatever the results of the strategies, these are never as important as the internal state of mind of the activist. Of course, it must be borne in mind that the independent India "created" by Gandhi has never been without a standing army, and the non-violent state of mind did not deter Gandhi's closest disciple, Nehru, from using force as a weapon of statecraft.

¹Eknath Easwaran, "Mahondas Gandhi's lesson for the Phillipines," Christian Science Monitor, world edition, December 22 1986, p. 34.

Easwaran's point is nevertheless well taken: the relatively easy revolution in the Phillipines (which has not yet proven itself) does not of itself provide a major item of evidence for the potency of the self-sacrificial type of movement which can sustain its non-violence over many years of being crushed by violence--and ultimately win. The latter is the type of movement which Gandhi envisaged, and which would be required in most situations where an alternative to violent revolution is sought.

It must also be recognised that for all Gandhi's indisputable greatness, his achievement has often been exaggerated or even mythologised. J.G. Davies is right to remind his readers that not only Satiyagraha but also violence played a part in achieving Indian independence

. . . and the British withdrawal was the result of a whole host of different factors and would almost certainly have taken place eventually if Gandhi had not appeared on the scene. Above all, such success as Gandhi did have was due to the fact that the British had a conscience. Put him in the Rome of 1925 or the Berlin of 1933 and not only would he have been arrested but no more would ever have been heard of him.¹

On the other hand, according to Walter Wink, non-pacifist Christians tend to forget or ignore non-violent successes against brutal, non-democratic regimes. He claims a number of such successes:

The Solidarity movement has irreversibly mobilised popular sentiment against the puppet Communist regime in Poland, where an entire clandestine culture, literature and spirituality have come to birth outside

¹Davies, p. 156.

the authority of official society. This happened despite the oft-repeated claim that what Gandhi did in India or Martin Luther King, Jr. did in the U.S. South would never work under a brutal, Soviet-sponsored government.

Elsewhere, nonviolent general strikes have overthrown at least seven Latin America dictators: . . . Campo of Brazil (1931), . . . Morales of Cuba (1933), . . . Castaneda of Guatemala (1944), . . . Lescot of Haiti (1946), . . . Arias of Panama (1951), Megloire of Haiti (1956), and . . . Pinilla of Colombia (1957). Gene Sharp, the nonviolent theorist, has itemised 198 different types of nonviolent actions that are a part of the historical record. Yet our history books seldom mention any of them, so preoccupied are they with power politics and wars.

For some reason, many people tend to dismiss these historical instances of nonviolence as exceptions and of no pertinence to their situation, which is, of course, always unique.¹

In any event, it has become clear in recent years that non-violent doctrine does not speak of a passive acceptance but an active resistance, bringing one's political, social, psychological and even physical resources to bear, non-violently, in the cause of revolution. So the issue resolves itself eventually into a debate between so-called idealistic pacifism and so-called revolutionary realism. Nowhere has this issue been more clearly exposed than in the debate between John Howard Yoder's "worldly idealism" and Reinhold Niebuhr's "worldly realism".

¹Walter Wink, "Entering the fire: Violence and nonviolence in South Africa", Sojourners, January 1987, p. 27.

In an essay entitled "Why the Christian church is not pacifist," first published in 1939, Reinhold Niebuhr applied his "worldly realism" to the question of political violence, from a distinctly Christian viewpoint. The Gospel and Christianity, he argued, cannot be simply identified with a law of love or a principle of non-resistance. Christianity measures human existence not only in terms of love, the final norm of conduct, but also in terms of sin. The Gospel is not primarily a challenge to obey, but good news which deals with the reality of disobedience.¹ Jesus' ethic is absolute, uncompromising, perfectionist, and in no way directly applicable to present-day activity. It enjoins not merely non-violence, but non-resistance. The real distinction is not between these, but between the ethics of the kingdom of God--which makes no concession to human sin--and all relative political strategies, violent and non-violent, which assume sin and seek peace among selfish and sinful people. The New Testament teaches that sin is a reality until the end of time, and so the kingdom is a divine, rather than a human, possibility.²

What, then, is the relevance for Niebuhr of kingdom ethics? The law of love enunciated there is a principle of criticism, by which various forms of justice, all of them imperfect, may be distinguished and criticised. For Niebuhr, religion is a way of interpreting human

¹Reinhold Niebuhr, "Why the Christian church is not pacifist," in Christianity and power politics (Archon Books, 1969), pp. 301-302.

²Ibid., pp. 305-307.

experience, rather than an excuse to ignore it. It is human experience that gives the lie to perfectionist ethics, including pacifism. True religion, as expressed in the New Testament, refuses to be idealistic and optimistic about people. Thus all political controversies are disputes among sinners, rather than between sinners and righteous people. Kingdom ethics can thus never be translated directly into strategies for present-day political goals. Rather, Christian social ethics should strive for realistic approximations, such as an independent judiciary, balance of power (without which love becomes a screen behind which to hide injustice), and power structures which respond to people's needs and aspirations. If approximate strategies are to be realistic, they cannot take perfectionist stands against, for example, violence.¹

Before attempting to demolish Niebuhr's views, Yoder provides a good summary of his pervading themes. These are:

- * that individuals are selfish,
- * that there are multiple and conflicting claims on any individual's love, and
- * that groups are less moral and more selfish than individuals.

For Yoder, it is Niebuhr's recognition of these realities which leads him to rule that methods of pure love are doomed to be ineffective in the world, and to find that even the cross of Christ, "symbol of love triumphant

¹Ibid., pp. 304-311.

in its own integrity (was) not triumphant in the world and society."¹

In response, Yoder found several important points of agreement between his own views and those of Niebuhr, including:

- * that non-resisting love, rather than simply non-violence, is the true New Testament norm;
- * that compromise always endangers the achievement of good ends;
- * that both sides are inevitably selfish in such activities as politics and war;
- * that some pacifists, especially between the two world wars, were over-optimistic about solutions to international problems; and
- * that Christians, who have access to special spiritual resources, cannot expect of societies as a whole a Christ-like degree of unselfish love.

However, Yoder holds that there is both a factual and a moral error in the argument that war is a "lesser evil" than, for example, tyranny. Factually, Yoder argues that war is no less harmful to civilisation and moral values than is tyranny. And morally, tyranny may be "more unpleasant for me" than war, but "in war the sin is mine, in slavery it is not."² He proceeds to criticise three of Niebuhr's key assumptions.

¹John H. Yoder, Reinhold Niebuhr and Christian pacifism (Scottsdale, Pennsylvania: Herald Press, 1968), pp. 10-13.

²Ibid., pp. 15-16.

First, there is the notion of "impossibility". A thing can be impossible in the sense that one does not have sufficient faith or courage or information or willingness to make the required sacrifices, says Yoder, or it can be impossible because of the nature of a world over which one has no control. The first kind of impossibility implies moral guilt, while the second does not, and "ethics is not interested in what is, but what ought to be". In this light, non-violent resistance is not impossible in the true sense.

Second, there is the notion of "necessity". Nothing is intrinsically necessary. Things are instrumentally necessary. It is not "necessary" to abandon love "unless something more important than love stands to be lost. This is in turn only possible if there is a higher moral absolute than love, and for a Christian such an absolute is difficult to imagine."

Finally, Yoder takes issue with Niebuhr's notion of "responsibility". He says Niebuhr is wrong to imply that responsibility is an obligation to take charge of the social order by means dictated by the social order itself, rather than by love. This would make responsibility a morally autonomous absolute, whereas for the Christian pacifist responsibility is a derivative of love.¹

Yoder holds that ethics should not be derived from the fact of sin, as Niebuhr seems to think, but from the fact of redemption. It is not the "failure" of the

¹Ibid., pp. 17-18.

cross alone but the cross and resurrection which point to the lifestyle that is consistent with being a Christian. All are sinners, but to derive from that an ethic of "therefore sin" is to lose sight of the new possibilities of new-born life which is offered by the Holy Spirit's power. Moreover, the community of the Holy Spirit, the church, is an exception to Niebuhr's rule about societies being less moral and more selfish than their individual members. The church is the body of Christ, against which the greatest offence takes place when Christians kill other Christians. By starting from the reality of sin, Niebuhr arrives at conclusions which could justify any social or foreign policy, and in effect lead to a pluralism which identifies moral goodness with the interests of a particular group, making social ethics ultimately meaningless.¹

In my opinion, both Yoder and Niebuhr score significant points in this theoretical debate.² First, three points may be identified for the arguments of pacifism.

Yoder must be correct in insisting that the pacifist option is not "impossible" in the absolute sense but rather in the sense that it requires considerably more moral endurance than violence. There is, as I have shown above, at least enough historical evidence to make that clear.

¹Ibid., pp. 19-20.

²It must be remembered that since they lived in different generations, Niebuhr never had an opportunity to respond to Yoder's critique.

Moreover, Niebuhr must be wrong to insist that the ethics of the kingdom of God have nothing to contribute to contemporary social ethics other than broad principles of criticism. What is the meaning of a principle of criticism if it cannot lead to a concrete judgement--say, that the use of violence in a particular situation is wrong, or right. (I do not mean to suggest here a legalistic reading of Jesus' sayings, but rather some degree of openness to being influenced by the criticism of self-interest which, as I have shown, is a broad thrust of many of those sayings.)

The final point scored by Yoder in the debate is his rejection of the moral autonomy of "realism". He asks the question, Is there anything for which it is worth sacrificing love? Niebuhr would respond that the question misses the point, since even war can be a necessary way to achieve a loving solution. But Niebuhr's "realistic approximations" are based on self-interest, in which socially-constructed norms define what is practicable. Yoder rightly insists that there can be no sense in speaking of ethics unless moral goodness is defined by something other than the interests of groups.

I think Niebuhr's critique of pacifism also scores three points.

First, as much as a pacifist may with meaning criticise Niebuhr's world-view as morbid and pessimistic, Yoder's can be seen as wildly idealistic. If the church were, in fact, as spiritually powerful in vanquishing sin as Yoder sees it, this would have become obvious long ago.

Rather, the church consists of individual Christians who are, as Luther contended, simultaneously sinners and saints--imperfect people with enormous potential. Christians can and do obstruct the work of the Holy Spirit, and this is possible both for individuals and for the Christian community as a whole.

Second, it appears that religious non-resistance depends to a certain extent on an another-wordly concept of avoiding the guilt of sin. Yoder speaks a great deal about what is "my guilt" and what is not, saying, for example, that it is better to be a slave than a soldier since the soldier bears the guilt for his or her actions. This seems to imply that the consequences of a person's actions do not matter in themselves, so long as the person does not personally have to bear the guilt for his or her actions--or failure to act.

Finally, Niebuhr is right to reject the assumption that religion is in conflict with human experience. Religion is part of human experience. If they say, "this is right and to hell with experience," pacifists would seem to be saying that God does not reveal himself within experience--in which case, where does he do so? It is equally wrong, as I have already pointed out, for Niebuhr to draw a rigid line between the kingdoms of God and of the world.¹ The point is that revelation and experience, ideal and reality, are not in total conflict. A helpful ideal will, sooner or later, be borne out by experience:

¹See also Turner, p. 146, on Thielicke's critique of pacifism.

otherwise there would be no way to test ideals, and, with all due respect to Yoder (and a great deal is due!), religious and moral pluralism would result just as certainly as if ethics were identified with interests.

Three points each, then, but the nature of the points for each position should be noticed. The merits of the pacifist position do not necessarily qualify it as the only possible option for Christians, as most pacifists seem to consider it. Rather, the pacifist argument is recognisably strong, and thus constitutes an important critique of justifications of violence. Violence, in this light, is not necessarily the more realistic alternative, and the religious values contained in Jesus' teachings are at least as relevant as the fact of groups' self-interest in choosing moral positions. On the other hand, the points for the possibility of a violent option are no more than that: pointers to a possible choice for violent means in some circumstances. Hopefulness concerning the church's potential, and healthy concern about sin and guilt, are without doubt essential elements of Christian spirituality, but must be tempered in ethics by cool analysis of the relevant social forces, and enlightened by faith in a God who is discernable not only in Scripture and theology but in the world he created.

Ultimately, then, when weighing the value of individual human lives against an urgent need for social change, what is most important is a consideration of what can be achieved by violence and non-violence respectively. To reiterate the utilitarian method adopted for this

thesis, "the moral presumption will prevail unless it can be shown that greater good will result from the exceptional stance than from following the leading of the presumption," so the burden of proof remains on those who argue for revolutionary violence, to show that such violence may indeed be a more effective way than non-violence to achieve desirable political ends. If a positive answer to that question is produced, then the assessment of the pacifist critique just completed would indicate that the case for revolutionary violence in such an instance would be proven.

(3) Counterproductive or productive?

So far in this chapter, certain arguments for revolutionary violence have had to be weighed not only against the primary presumption for the preservation of life, but also against secondary presumptions against self-interest and for the less powerful. Now a third presumption comes into play. It would appear that if anything is to justify homicide in a revolutionary context, it will be a matter of desirable ends justifying undesirable means. In considering the effects of violence, then, we have to bear in mind the need for proportionality--that the ends achieved must be sufficiently desirable to outweigh the right to life of those killed in the process of achieving those ends. The difficulty of such a calculation will be recognised in due course, but the empirical question must be asked: Is it possible that to some extent revolutionary violence, far from achieving justice and peace, tends to be counterproductive in terms of these ends, rather producing greater injustice and continuing strife?

One of the most forceful arguments against pacifism is that it has the effect of lending support to the powerful. Where those in power can only be removed by means of non-violence, to preach non-violence to the masses is to bolster the status quo. In effect, the pacifist in such a situation is stating his or her preference for tyranny over against the "momentary anarchy" necessary to overcome it. After destruction, assuredly, comes the task of building structures that preserve justice and peace, but the initial negative task cannot be avoided. ¹Non-violence, then, sometimes amounts to complicity in oppression, since violence is not chosen by the oppressed but imposed upon them. This form of argument compels the realistic examination of the "necessity" of violence.

Christian preference for peace, the enormous difficulty Pope Paul VI, in his encyclical Populorum Progressio, of a civil war, the logic of violence, ¹stated that while recourse to violence is far "grave temptation" where "great injustice is found, the difficulty of building a regime of justice and freedom while participating is destructive." ²save where there is manifest, long-standing in a process of violence, we earnestly desire that tyranny, which would do great damage to fundamental personal rights and dangerous harm to the common good of the country. ²The encyclical had a mixed reception. The terms used left the question "entirely open," since the interpretation of the requirements is left to the individual's conscience. ³response to the pain which had led others to a call to

arms. ¹Niebuhr, pp. 311-312. ²whole made it clear that the

bishops' wrath was directed not towards those who took

²Pope Paul VI, Encyclical letter Populorum Progressio: On fostering the development of peoples (London: Catholic Truth-Society, -1968), p. 17.

¹Paul VI, p. 17.

³Burton, p. 122.

²Villal-Vicencio, Between Christ, pp. 137-142.

possessed political and economic power and abused it. But the bishops were clearly also worried about the counter-productivity of violence as a means of liberating the poor.

The argument becomes, then, one of whether the consequences of violence are better than the consequences of non-violent strategies for change. I have conceded the force of the argument that non-violence can in some situations favour the continuation of oppression, but it remains necessary to question the assumption that violence can in a realistic sense be more effective than non-violent methods as a way of bringing about constructive social change.

The basic utilitarian argument in favour of violence is difficult to dispute. Even with life supreme on a scale of values, few would say that it would be wrong to take a life if there were a good chance that by doing so, one would save, say, a hundred lives--or to take a hundred to save a thousand. In practice, though, that kind of arithmetical projection is difficult to make. In respect to revolutionary violence, it should be enlightening to take a look at the history of post-revolutionary societies and ask whether the structures in these societies have in fact been transformed in such a way as to end, or mitigate, oppression. Unlike an election, after all, a revolution concerns more than simply changing the party in power. As Swomley says, "the oppressive system inherited from the old order must be replaced or transformed into new and liberating structures" if the revolution is to

succeed.¹

In other words, even if one accepts, with Joseph Fletcher, that the end justifies the means, always and absolutely, one has to recognise that "the end to a considerable degree is conditioned by the means."² Simone Weil has called attention to the way in which the use of violence leaves its mark not only on the victim but on the perpetrator:

Force is as pitiless to the man who possesses it, or thinks he does, as it is to its victims. The second it crushes, the first it intoxicates. The truth is: no one really possesses it.³

Swomley has studied the empirical effects of revolutionary force in a number of societies after armed uprisings. He claims to have identified five hazards of revolutionary violence:

- * The danger to the resisting group.
- * The threat to the economic life of the country and its existing values.

¹Swomley, p. 80.

²Ibid., p. 104. The argument over ends and means is often unhelpfully abstract. Davies, p. 163, rightly warns of two common errors: pacifists (and others) are inclined to absolutise means, while Communists (and others) tend to absolutise ends. It is better, as Davies says, to recognise that "if certain means are contrary to a moral guideline, only a very special end would be held to justify them"--and then, I would add, only if there is a good chance of achieving that end, rather than, perhaps, merely a wistful hope.

³Simone Weil, The Iliad, or the poem of force, tr. Mary McCarthy (Wallingford, Pennsylvania: Pendle Hill, 1986), p. 11.

* The difficulty of controlling violence, which so easily becomes a competition in inhumanity.

* The danger of negating the purpose of the revolution by emphasising aims over against persons.

* The difficulty of providing and maintaining new structures in a non-violent way after power has been seized (in other words, the difficulty of renouncing violence after it has achieved its primary aim.¹

Most modern revolutions have aimed at transforming structures; decentralising power and wealth; and establishing justice, peace and participatory democracy. How nearly have these aims been achieved after the revolutionary dust has been settled? Swomley's study of violent revolutions persuades him that in each of these situations there were "serious problems following the use of armed violence that seemed to stand in the way of revolution."² Such problems included the following:

Maintenance of power. As a result of ideological and strategic differences as well as personal ambition, one group within the revolutionary movement tended to seize power and maintain structures to hold on to it rather than sharing it with the people as a whole. According to Swomley, this tendency might be expected in view of the "habit of conspiring and the use of armed force rather than open campaigning for control."³

¹Swomley, p. 167.

²Ibid., p. 81.

³Ibid., p. 89.

Centralisation of power. A central power base is a requirement of violent revolution. After the take-overs studied by Swomley, there was no perceived need to "change a successful organisation", and the party tended to remain organised along centralised, military lines. Moreover, the fear of counter-revolution was persistent, rooted in the violent seizure of power ("what one group can do can presumably be done by others") as opposed to reliance on the popular demand and its non-physical force. Swomley quotes Kenneth Kaunda:

History shows several times that the method you use in obtaining your objective is very often the method used by other people to try to throw you out of power.

The result of this tendency was that revolution became institutionalised along totalitarian lines.¹

Foreign hostility. Possibly because of the threat to neighbouring rulers constituted by the revolutionary example, and possibly because of revolutionaries' reputation for being zealous in exporting violent change, the new regimes in Swomley's sample tended to find themselves in situations of international tension.²

Damage to the economy. Violence on a large scale, such as occurred in Russia, China and Algeria is damaging to agriculture and industry. It breeds further violence through starvation, labour camps, rapid industrialisation and other measures unique to each country.

¹Ibid., pp. 95-96.

²Ibid., p. 97.

But Swomley conceded that this consequence was usually a short-term one. In the long-term, some revolutionary nations have made significant material advances, and starvation was eliminated both in Russia and China.¹

Overall, Swomley found that in each of the nations he studied,

a very small group continues to determine the destiny of millions because human as well as material resources are subject to state planning. . . . Each of the nations continues to develop its military machine . . . and each has conscription. The ruling elite is willing to restrict, intimidate and manipulate people with the result that certain freedoms, to organise, to propagandise, to publish, to travel, are denied. There are no independent labour unions, no independent judiciary and no right to participate in decision-making.²

Swomley is certain--and argues convincingly--that such developments are the direct result of the authoritarian and military type of political organisation which is required of necessity for the violent seizure of power:

The fact of violence does not necessarily guarantee the failure of a revolution. It is possible, for example, eventually to overcome the economic damage caused by civil war; it is also possible to erase the hostility of other nations by successful diplomacy. It is far more difficult, however, to move from a highly centralised organisational control of the state or to abandon the use of violence against recalcitrant people. The reason is this: the violence required for an armed seizure of power in a modern

¹Ibid., pp. 102-103.

²Ibid., p. 103.

industrial state or even in a large semi-industrialised nation is usually of such a magnitude that it adversely conditions the organisation that must both seize power and manage the revolution thereafter. There seems to be a carry-over not only into the political structure that the revolution builds, but also into the relationships of those who control the new organisation of society.¹

One must recognise that no two researchers into the subject chosen by Swomley would have come up with identical results. Although he was looking at empirical effects, his interpretation of the data, and especially of causalities, was his own, and the force of those interpretations is thus only relative.

It must also be recognised that revolutionary thinkers are far from blind to the probable negative effects of the violent means they are driven to. I have already shown that the violent response has to be seen primarily in the context of desperation rather than of calculation. In that context, it is understandable that revolutionary leaders, confronted by the prospects of negative side-effects of their struggle, tend to answer that they will cross that bridge when they come to it.

It is also difficult to refute the response to Swomley's findings that says, in effect, that even if the post-revolutionary societies tend to leave much to be desired, they are in better shape than they were before. Nevertheless, the purpose of both Swomley's study and this chapter is to examine the effects of violent revolution. Swomley's

¹Ibid., p. 104.

arguments point specifically to the probable consequences of armed struggle--consequences that would possibly (and one would intuitively say, in the case of some of these consequences, quite probably) not arise in the case of non-violent revolutions.

Another possible response to Swomley's findings is to point to the need for historical distance in assessing the long-term effects of epochal events. A revolutionary may well say something to the effect of: "Give us time: you would have us put up with oppression for hundreds of years--don't condemn the new structures because they are not perfected overnight." Yet most of Swomley's research was conducted in well-established revolutionary nations like the Soviet Union, China and Algeria, which do not yet show signs of significant openness to democratisation or decentralisation of power. This immediately suggests another common response, which says: "Ah, but in Africa (or South Africa, or Latin America, or wherever) we are different: things will turn out differently here, because of such-and-such . . .". That response is, of course, too general to refute, but thus far there is no evidence to suggest that Africans or anyone else are significantly different from other people in terms of the negative effects upon them of violence.

Swomley cites Lawrence Stone's finding that violence leads to bitter cleavages in society on an escalating scale, and that therefore "the very use of violence creates a new situation demanding a new solution."¹ This solution

¹Ibid., p. 97

should, of course, involve progress towards reconciliation among groups who were estranged during the revolutionary process. "But revolutionary thinking based on violence increasingly views the enemy as someone to be subjugated or destroyed", making later reconciliation almost impossible.¹

While in theory, then, homicide can be justified in revolutionary situations by reference to the tyranny being overcome and the new society being created, in practice the consequences of violence frequently fail to produce the desired results. At this point, it would probably be difficult for a revolutionary thinker to produce any persuasive historical examples of violent revolutions so productive that they make a compelling case against a preference for non-violent strategies. The presumption for the preservation of life, coupled with the presumption for proportionate reason, thus indicate a burden of proof that is not outweighed by the evidence of the productivity of violence.

3.6 Case closed?

The most immediately apparent conclusion suggested by the arguments presented in this chapter is that the case for violence fails on the grounds that it does not provide compelling and proportional evidence to support homicide in the cause of revolution. However, that is only a prima facie conclusion. It must be recognised that in the end, what has been said above applies, if anything, to "revolutions in general". Nothing here

¹Ibid., p. 97.

can ultimately refute what was recognised in the beginning: that in theory, a tyranny may be so oppressive, so violent, so homicidal itself, that an insurrection, no matter what the consequences, could produce only better prospects for the society in question. The trouble is: how may such a tyranny be recognised? The truthful, though unsatisfactory, answer is probably that what is involved is a "gut-level" intuition--no less subjective, indeed, than Barth's Grenzfall--in the situation. Hopefully, a Christian struggling to make such a decision would do so with more humility, self-criticism, and caution if enlightened by such warnings as have been named above.

As I have conceded, this is not a satisfactory answer. But can a better one be produced within the limits imposed by Christian theology, which demands both obedience to general standards and freedom of conscience? Indeed, given what has been discovered above about the limits of revolutionary violence, could any more definite answer possibly satisfy the fourth secondary presumption, which calls for a balance between these twin values of obedience and freedom?

In the end, this whole chapter on revolutionary violence has come down, by a process of logical eliminations, to one question: Is it worth the cost? If the likely costs are correctly understood, that question can be answered only within the situation, and only tentatively at that. A plausible universal answer is impossible. The only thing that can be hoped for is that a Christian might make a better guess at his or her answer if informed

by valid presumptions, factual assessments, and reasoned analysis, than otherwise. There is never a sure way of knowing what will happen if one does X as opposed to what will happen if one does Y; how many lives will be lost if one acts in one way, and how many in another; how many if we fail to act or wait a while; how many social freedoms will be credited to the revolution's account and how many debited, and what the value of each is in terms of the value of human lives. Ferguson has suggested that no one ever achieves precisely the "results" they expect.¹ Suffering cannot be calculated, and cannot be avoided, whatever one does or fails to do. Peter Berger has referred to this sobering realisation as the "postulate of ignorance".²

Does the lack of a basis for calculation mean that one must simply opt out of a conclusion on this matter, and simply sing along, "what will be, will be"? Ferguson says no:

We can make some partial judgements. It is a simple fact that non-violent methods do not add to the sum of destruction. It is also a simple fact that violence tends to provoke counter-violence . . . We may not always see the creative effects of non-violence. The destructive effects of violence are plain for all to see.³

This is a bad overstatement. Sometimes, the creative

¹Ferguson, pp. 105-106.

²Peter Berger, Pyramids of sacrifice (Garden City: Anchor Books, 1976), p. xiii, also 138, etc.

³Ferguson, p. 106.

effects of violence are plain to see. Modern Germany is perhaps an example, as are some promising signs--despite other ominous signs--in Zimbabwe and presumably many other nations. Ferguson also neglects the possibility that non-violent methods, if ineffective, may indeed add to the sum of destruction, by delaying the end of tyranny, and thus allowing the present degree of suffering to endure.

Nevertheless, it is true that in the late twentieth century Christian activists are confronted by a growing movement within the church (as well as outside of it), demanding that non-violent methods be given a serious trial. As Villa-Vicencio puts it:

Simple sanity suggests that there may come a moment when an oppressed or violated people can do no other than take up arms against the aggressor. Honest reflection, in turn, tells us that few Christians have with planned consistency explored the options of direct non-violent action as an alternative.¹

Given the negative effects of counter-violence, those inclined to throw their weight behind violence would be irresponsible not to ask whether all other alternatives have been tried. Massive, strategic, meticulously prepared and planned non-violent action is an alternative that calls for moral stamina, concerted leadership, great courage, much patience, and spiritual strength. It has not often been tried, but--if only because it dramatically reduces the number of homicides that must be carried out in the cause of revolution (if not necessarily in

¹Villa-Vicencio, Between Christ, p. xxiii.

the course of its suppression)--it should not be lightly dismissed, or readily relinquished when half-hearted "dialogue" or "working within the system" (neither of which is the essence of direct non-violent action) ends in inevitable failure.

"When all else fails," perhaps after all, armed struggle is the recourse which is inevitable, pre-rational, and probably even morally justified. But in no instance in recent history has the "all else" cited in order to justify revolutionary violence included properly-planned and massively-supported passive resistance.

Conclusion

The wise man, said St Augustine, will wage a war if compelled to do so, and if his purpose is peace.¹ The Christian prince, said Desiderius Erasmus, will first question his own right to wage war--since everyone automatically assumes that he or she is in the right--and will then "carefully consider whether it should be maintained by means of catastrophes to the whole world."²

I have questioned whether war can lead to peace, and whether violence can bring about true revolution. I have further questioned whether the catastrophe of homicide en masse is as easily justified as some revolutionary moralists would suggest. And I have suggested that

¹St Augustine of Hippo, The city of God against the pagans, tr. W.C. Greene, vol. VI (London: William Heinemann, 1969), pp. 151, 163.

²The education of a Christian prince, in Marrin, p. 157.

the prospects of non-violent revolution are, in principle, more attractive than those of violence. On the other hand, I have also recognised the seriousness of the call to work for justice and against tyranny, and the agony out of which some Christians have been led to adopt violent strategies in pursuing these legitimate and essential goals. This tension should not lead to the strange conclusions drawn by Jacques Ellul, who responded as a Christian radical pacifist to the dual imperative of justice and the sanctity of human life. The dual imperative, he argued, should lead one not only to understand the "explosions" of the poor against injustice, but even to approve of them, in the sense that the poor must use the only way available to them of "protesting their human right to live." Yet Ellul cannot condone any Christian participation in or affirmation of these acts of violence. Rather, the Christian is called upon to take up the "most thankless position anyone can take": to be "on the side of the oppressed and at the same time to have to tell them that their explosions of violence are futile and will bring no real change."¹ This ambiguity leads Ellul to a rather bizarre call for Christians to join revolutionary movements without themselves participating in violence:

If the Christian, because of his solidarity with the poor and the oppressed, joins their movement of redress, stands with them in their revolt, he may never use violence himself, nor even unreservedly endorse their violence. The Christian may not

¹Ellul, p. 69.

commit murder or arson even to defend the poor.¹

Ellul seems to consider it more important that Christians' hands be clean and their consciences clear than whether or not violence is done and lives lost. He also apparently fails to countenance the possibility that one can be both a Christian (who thus may never participate in violence) and poor (and thus quite justified in "exploding"). Rather, Ellul seems concerned to find a way for Christians who are not poor but are troubled by social consciences, to have their place in the revolutionary movement while washing their hands of killings. The fact that so important a thinker can arrive at so wistful a conclusion should be a warning that in the complex and hazardous ethics of violence the tempting, longed-for via media is a seductive illusion.

Violence cannot simply be ruled out as an "un-Christian" act or ethical impossibility. It is, in principle, neither. Though the calculus of conflicting rights may be ultimately inconceivable, and the arithmetic of possible consequences certainly impossible, the calculation cannot be avoided, and the answer which appears to be "less wrong" must be grasped hopefully, with due awe for the seriousness of the choice being made. Certainly, violent action against gross injustice on the scale evident in South Africa and elsewhere is "less wrong" than either inaction or ineffective action. According to Walter Wink, Gandhi himself "continually reiterated" that

¹Ibid., p. 135.

violence was far preferable to submission, if non-violent action were for some reason impossible: "Where there is only a choice between cowardice and violence, I would advise violence," he quotes Gandhi as saying.¹ To argue against violence and then do nothing (or confine oneself to ineffective token gestures) is to try to opt out of the one thing that the ethical person simply cannot avoid: the imperative to make a choice. Moral dilemmas are by definition difficult choices, but they cannot be wished away. This point is repeatedly emphasised by Burtchaell, who says the most significant difference is not that between the "warrior" and the "objector", but that between the person who makes a conscientious choice and the one who merely follows his or her impulses. The person who conscientiously chooses either for violence or for non-violence is a "hero", for that person has bravely made a terrible decision:

Both the conscientious warrior and the conscientious objector . . . are comrades. Both have chosen a pathway of service to walk upon: both are willing to follow it to the death. Together, they stand in almost equal opposition to the ordinary warrior, who is lost in his fury, and to the ordinary objector, who declines equally to take up arms for his neighbor or to suffer imprisonment or death as a witness to him. It requires similarly superhuman virtue to be a conscientious warrior or to be a conscientious objector. Either choice must be made with deep regard for one's own self, and with disregard for self in service of one's brothers. Each should regard his gift to his brothers as invaluable, yet

¹Wink, p. 29.

incomplete. Both will be held in some public contempt, unrecognised in their respective heroism. Perhaps only the one could understand the other.¹

Having said this, the last word in a chapter that is less about the need for revolution than about the ethics of homicide, has to be a word reiterating the seriousness of the act of killing--always and everywhere. Christian social ethics can never throw its weight unambiguously behind homicide. As Davies concedes, a terrible choice is always involved in revolutionary violence. He characterises it as a choice between love for the oppressed and love for the oppressor:

There is a denial of love if I have to kill an oppressor. It is vain to suggest that such an act can reveal my love towards him. . . . I have to accept the guilt without cowering behind the pretence that it has not been incurred.²

Even while recognising the possibility of the ultimate emergency act of denying life, Christian ethics must remain a force which tends to encourage and facilitate the exploration of non-violent and effective methods of working for revolutionary change.

A final consequence of the ethical concern for human life is probably the most significant, given the validity of Chikane's statement that once things reach a certain point in a society's history, there is little or no space left for debating violence and non-violence. If human

¹Burtchaell, pp. 171-172.

²Davies, p. 158.

life is sacred, then the best thing that can be done is to remove the tensions that produce homicide. The number of those free to make meaningful decisions about violence and non-violence is limited by the revolutionary situation itself. In those societies that have not yet reached the revolutionary stage, or where there is still some chance of avoiding that explosion when few can find or even seek the space in which to make moral decisions about strategy, the ethical concern about human life will be above all a concern to preserve and extend that essential space in which the sanctity of life can inspire moral decisions. This point is eloquently made by Rollo May:

Violence is a symptom. The disease is variously powerlessness, insignificance, injustice--in short, a conviction that I am homeless in the world. . . . To strike the disease at its core requires that we deal with the impotence. We must find ways of sharing and distributing power so that every person, in whatever realm of our bureaucratic society, can feel that he too counts, that he too makes a difference to his fellows and is not cast out on the dunghill of indifference as a nonperson.¹

The problem of violence must be recognised as one that arises mainly when things have moved beyond the reach of moral suasion. This fact should move Christians to foster with increasing zeal social justice, political and economic power-sharing, and communication between opposing groups in society. In that way, the hideous

¹May, p. 243.

problem of violence--a problem to which, as I have shown, there is no satisfactory solution--can perhaps sometimes be avoided altogether.

CHAPTER 4

ABORTION

In addressing the arguments about abortion, roughly the same approach will be used as in the preceding chapter about revolutionary violence. First, the problem will be defined--under which heading the question must be asked: Is abortion indeed homicide? Then a survey of scriptural and historical theological attitudes will be attempted. That will be followed by an analysis, in the light of this study's methodological presumptions, of the various circumstances under which, and reasons for which, abortions are carried out. Finally, some conclusions will be drawn.

However, this chapter will not follow exactly the structure of the previous one, because in two important respects the issues differ fundamentally. The definition of the problem ("is abortion homicide?") is a lengthy and complex undertaking. And while there is no need here for an excursus into such prior issues as the authority of the State, there does seem to be a need, after contextually analysing the circumstances of abortion, to address the questions of who is responsible for making decisions about this act (is it the doctor, or the patient, or

the State . . . ?).

During the course of this chapter, I shall make repeated reference to the report of a Southern African Anglican commission on abortion.¹ I must explain why this will be done. An essential dimension of ethical contextuality is, as was shown in Chapter 1, critical attention to the prevailing wisdom of the group within which one finds oneself. The alternative is to lose sight of the influences (positive and negative) of the group's interests and norms upon the development of one's own attitudes. Moreover, if one did not pay attention to what the church--and especially that part of the church in which one finds oneself--is teaching currently, the value to the church of theological ethical reflection would be limited. Being myself a member of the denomination for which the abortion commission's report was published, I have decided to use the report as a reference point for Protestant orthodoxy on the matter, since I think it is a fair representative of prevailing Protestant wisdom on abortion. This prevailing wisdom encompasses

¹The commission was appointed by the Episcopal Synod of the Church of the Province of Southern Africa (CPSA), and included five clergy and three laity, two of the latter being medical doctors. After a year of deliberations ending in September 1977, the group produced a 48-page report (plus appendices) which contained judgements on on the status of the human foetus, on various possible indications for abortion, and on relevant South African legislation. The Anglican bishops released the report for general distribution a few years after its finalisation (there is no publication date). In this chapter I refer to it as the "CPSA Report", by paragraph number for convenience.

a fairly wide range of positions, but by and large it is fair to say that the mainstream Protestant churches' "official" teaching (to the extent that there is any such thing) could be characterised as "middle-of-the-road" on abortion, a position also adopted by the CPSA Report. It will become clear that I find the arguments generally produced to support this position wanting in several important respects.

4.1 The problem defined:

Is abortion homicide?

Is this unborn being, growing within the mother, a human life? . . . Judge it to be a mass of cells, a piece of meat?--then vote for abortion-on-demand. Judge it to be a human life?--then join us in fighting for his right to live, with all the resources at your command.

Dr and Mrs J.C. Willke¹

The Willkes' polemical style is appropriate to their fervent opposition to abortion (which I shall assess below), but the basic point they are making in the above quotation, however crudely it may be stated, is valid. To form a judgement on the justifiability of an abortion, one must first form a judgement on the status of the foetus. The question, "is abortion homicide?" (that is, does abortion involve the killing of a human being?), clearly depends on some kind of ontological definition of the foetus.

Some would argue that the answer to that question

¹Dr and Mrs J.C. Willke, Handbook on abortion (Cincinnati, Ohio: Hiltz Publishing Co., 1971), p. 8.

lies in the biology of pregnancy and birth. For reasons that will become clear shortly, I disagree, and in any event this is not a proper place for a detailed summary of that physical process.¹ It is enough here to draw attention to the fact that whatever gaps may exist in the scientific understanding of pregnancy, all are agreed that the "first nine months of human life" (if such it is--an open question at this point) constitute a continuous, gradual and steady process of development from conception, through establishment of the genotype, through the blastocyst stage, through the development of the embryo/foetus, and finally to birth.² This development can be interrupted by natural or artificial events, leading to miscarriages or abortions, or retarded within the womb, leading to deformities either through genetic imperfections or diseases. In some cases, natural events in the early stages lead to multiple fetuses arising out of a single conception.

Artificially induced abortions interrupt the normal process of development, generally in one of four ways: dilation and curettage ("D&C"), vacuum aspiration, saline

¹The reader who seeks such a summary would do well to consult Gordon Bourne, Pregnancy (London: Pan Books, 1976), ch. 4. A more concise treatment is found in Harmon L. Smith, Ethics and the new medicine (Nashville: Abingdon Press, 1970), pp. 18-19.

²In this study, as in most moral treatments of the subject, the term "foetus" is used as a generic term of convenience for zygote, blastocyst, embryo, etc., but where it is necessary to distinguish between the various stages, the neutral generic term "conceptus" is used.

injection, and hysterotomy. The first two methods are the most common, and, like the third, effect the death of the foetus within the womb. A "D&C" is usually performed after either the second or the third type of operation, for the sake of the mother's health. Hysterotomy is a surgical opening of the womb, the live foetus being extracted and usually left to die. Opinion is divided on the effects of abortion on the mother. Physical problems after hospital abortions--especially in the first twelve weeks of pregnancy--are rare, but such complications are more frequent in the case of illegal abortions (known in the prevailing debating jargon as "back-street" operations).¹ There is considerable disagreement on the psychological effects of abortions on the mother. Elizabeth Smith's survey of the literature leads her to conclude that the incidence of serious psychological problems is small, but Larsen mentions reports of a more diverse nature, including one which found as high as twenty-three percent incidence of severe guilt feeling.² Larsen comments that such a range of opinion is to be expected:

The danger of interpreting results to fit one's own preconceptions is obviously very great when dealing with such intangibles as mental sequelae.³

¹See Willke, pp. 27-28; Smith, p. 20; Larsen in CPSA Report, appendix B, pp. 51-53.

²Elizabeth M. Smith, "A follow-up study of women who request abortion," American Journal of Orthopsychiatry 43, 4 (July 1973): 575-580; Larsen in CPSA Report, pp. 64-65.

³Larsen in CPSA Report, p. 64

None of the foregoing indicates anything about the status of the foetus. That is a moral question, and/or a metaphysical one, not a biological one. It is true that biology takes as its presupposition that life begins long before birth, but in the purely biological view life is a cycle of continuity, so the origins of a human life not only precede birth but conception as well. The question that has to be settled here is: At what stage, in a continuous biological process, should one determine that a human person has come into being?¹ The objective biologist would say, quite rightly, that the question involves speculation belonging in the human sciences, rather than in the field of his or her expertise.

On the other hand, Oliver O'Donovan has attempted to show that genetic science provides an answer to the question of the beginning of an individual life in the literal sense. For O'Donovan, to speak of a person is to speak of an identity, which he defines as "that which . . . makes us beings with histories and names". All "qualitative" descriptions of personhood--such as those relying on concepts like "mind" and "soul"--are inadequate and inconsistent with traditional teaching, he says. Rather, the history of the doctrine of man focusses attention on the concept of individual identity. And "we must learn from what scientists can tell us about where the

¹Beverley Harrison, "Continuing the discussion--how to argue about abortion II," Christianity and crisis 37 (26 December 1977): 311-313.

story of each individual begins."¹ O'Donovan points to the fact that each fertilised ovum has from the moment of conception its own unique genetic structure, and this "new genome" controls the new being's future development (to the full extent that this development is controlled by genetic factors as opposed to the environment):

We cannot ignore the fact that such science as we have today speaks of this point of new beginning at conception. Anyone who is dissatisfied with the conclusiveness of this science might properly do as Roman Catholic thought does--declare ignorance about the beginnings of personal existence and then protect the child from conception on a play-safe basis. Anyone, on the other hand, who is going to be wiser than this science, ought to offer an alternative account which will be sufficiently conclusive to render the appeal to genetics irrelevant.²

O'Donovan himself is careful to concede that genetic science does not prove the matter of personal human identity from conception, but only "seems to provide an indication"³ of this--prima facie evidence, we might say. But is it in fact evidence of anything at all, apart from the rather obvious fact that the fertilised ovum is something or someone distinct from either sperm or egg or anything or anyone else? Patrick O'Mahoney, writing seven years before O'Donovan, had conceded that the human embryo,

¹Oliver O'Donovan, Begotten or made? (Oxford: Clarendon Press, 1984), pp. 49-64.

²Ibid., pp. 56-57.

³Ibid., p. 56.

from its earliest stages, can be distinguished from any other entity.¹ The same could be said for the embryo of a dog. The question is not so much whether the fertilised ovum is a distinct entity, but whether that identity is appropriately characterised as that of a human person, as opposed, perhaps to a potential human person, which is something else. This is a philosophical question, and it is not, and cannot be, answered by biology. I shall now survey critically some of the answers that have been attempted by theologians and philosophers.

(1) The argument from potential

Few thinkers take a firm stand on the status of the foetus. Roman Catholic thinking, for example, currently holds that the foetus should be treated as if it were human. The church avoids saying that at every stage it is actually a human person. Most mainstream Protestant churches confess readily to uncertainty about what constitutes the beginning of a human life. The CPSA Report, for instance, states that this question is of "paramount" importance, but fails to arrive at a clear answer. The report does, however, implicitly reject one option: that the foetus is a morally neutral collection of cells that the mother should therefore be free to have removed without moral concern, as if it were a tumour. Drawing attention to the fact that the genotype is established at conception, and the process from that point onwards

¹Patrick O'Mahoney, "Where human life begins," The month 10, 12 (December 1977): 400-404.

is gradual but steady, the commissioners continue:

What we know scientifically of the foetus and its origins must make us reverence it as, at the very least, potential human life, to be removed only if greater values are to be assessed by the Christian in the light of the nature of man and his relationship to God . . .

In a real sense, from conception onwards the foetus has begun to participate in a process of "humanisation" which, if not interrupted, will lead to maturity as a human personality. This foetus may be spoken of as "potentially human", provided it is understood to be no mere collection of cells but human life-in-the-making. The process of growth should continue all through life and through the grave to resurrection . . .¹

In speaking of "potential" humanity, the report is at best stating the obvious and at worst trying unsuccessfully to avoid the issue. The reliance on potential is a mistake made frequently in the abortion debate. In a sense, it is true that, born or not-yet-born, everyone is potentially human, in terms of being involved in a process of growing and maturing which should, as the CPSA Report says, "continue all through life and through the grave to resurrection," but this is not the point at issue. The question is: Is there a difference between the foetus and the born person--a difference significant enough to affect the ethics of killing the foetus? In terms of this question, there is a world of difference between the judgement "potentially human" and the judgement "human". No one can seriously argue about the fact that, given favourable

¹CPSA Report, §5.1-2 (italics mine).

conditions, the foetus will develop into what is indisputably a person. For that matter, given certain conditions--that is, contact with an ovum under the right circumstances--the same could be said of a spermatazoon. The logical fallacy lies in assuming that since the foetus is undeniably potentially human, it necessarily has the moral characteristics and privileges which pertain to one who is already a human person. As Kluge has shown, to say that a potential X necessarily has the the same qualities as an X is to say that an acorn has the same qualities as an oak tree, which is absurd. If one wishes to say that the foetus has the rights and privileges of a human being--which is not in principle absurd--one cannot conclude this from the statement that it is a potential human person, but only from the statement that it is a human person. The only thing that could be concluded from the statement that the foetus is a potential human being, is that the foetus has the rights and privileges of a potential human being, and the rights of a potential human being may or may not arguably include a right to be born!¹

But if it is not as a potential human person that a foetus has a moral status which includes a right to live, at what stage in the development of fertilised ovum to baby does such a status begin? When is it possible to begin speaking not of a potential human person but of a person?

¹Eike-Henner W. Kluge, The practice of death (New Haven: Yale University Press, 1975), pp. 13-19.

(2) The argument from birth

Fletcher states categorically that a foetus becomes a human being at birth. As a foetus, it has none of the qualities which he associates with human beings: self-development, freedom, rationality. It is just a "part of the mother," therefore to be legitimately excised for any good reason.¹ But the Willkes correctly point out that birth is a very minor change in the bodily development of a foetus/baby: "The child is no different before birth than after, except that he has changed his method of feeding and obtaining oxygen."² In no sense can a newly-born infant be described as having substantially more freedom, self-development or rationality than a foetus. Such qualities begin to emerge to view much later in the life of a human person. Birth itself seems an arbitrary line of distinction.

(3) The argument from animation

Some, in the tradition of St Augustine and St Thomas Aquinas, argue that abortion is homicide if the foetal body possesses a soul, while an unanimated (soulless) foetus is not a human person. Those adopting this approach today fall into two broad camps.

The first of these groups begins from the viewpoint that a human being--as distinct from other types of animal--has a capacity for rational thought. This is the Thomistic presupposition, and from it proceeds Aquinas's theory

¹Fletcher, pp. 39-41.

²Willke, p. 24.

of hylomorphism. Curran summarises this line of thought as follows.

According to the Thomistic theory, the soul is the substantial form of the body, but a substantial form can be present only in matter capable of receiving it. Thus the fertilised ovum or early embryo cannot have a human soul. Man's spiritual faculties have no organs of their own, but the activity of "cognitive power" presupposes that the brain be fully developed, that the cortex be ready. (In the view of John Donceel) the least we may ask before admitting the presence of a human soul is the availability of these organs: the senses, the nervous system, the brain, and especially the cortex. Since these organs are not ready during early pregnancy, he feels that there is no human person until several weeks have elapsed.¹

An additional argument in favour of the significance of the cortex may be the fact that modern medicine tests for death by irreversible loss of brain functioning. It seems a reasonable rule of convenience to test for the beginning of personal life in terms of the beginning of the same function. Bernard Häring (a Catholic writer like Curran) produces a third argument for the same criterion, this time based on anthropology:

According to important paleontological and anthropological findings, a tremendous leap in the development of the cerebral cortex, which distinguishes man from the animals, was the decisive moment of hominization. Without it, no manifestation of specifically human

¹Charles E. Curran, New perspectives in moral theology (Notre Dame, Indiana: Fides Publishers, 1974), pp. 186-187.

personal attributes or activity is conceivable.¹

According to this approach, then, if the human being is distinguished from the animals by possessing a soul, which in turn requires a capability for rational thought, then the cerebral cortex is a necessary element in humanity. Thus a foetus without a cerebral cortex cannot be described as a human person.

The second group of theologians who argue from the presence of a soul understand the soul rather differently. For them, the soul is associated with individuality rather than rationality. For this group, the decisive moment of development is not the moment when the cerebral cortex becomes present, but the fourteenth day after conception. Until the fourteenth day, the fertilised ovum is capable of twinning. Since before this stage the zygote and then the blastocyst may become one, two or more persons, the zygote or blastocyst cannot be considered to be a human person. Against this latter group, it must be said that science does not yet fully understand why twinning sometimes takes place and not at other times. It is conceivable (but totally unverifiable at this stage, and admittedly unlikely) that it is the genotype, established at conception, which determines whether or not the early embryo will twin, and therefore that, for a short time, two or more "persons" might share a single fertilised

¹Bernard Häring, Medical ethics (Notre Dame, Indiana: Fides Publishers, 1973), p. 82.

ovum/zygote.¹

Both groups of theologians who speculate on the origins of the soul beg a central theological question. The problem with "soul-talk" is that it is by nature highly speculative. The soul is not, of course, an indentifiable substance. It is an abstract concept which describes the value of a human being and his/her relationship with the divine reality. To speak of a body without a soul, or a soul without a body, is to indulge in difficult metaphysics. A human being in traditional Christian thought is an intricate and inseparable combination of "biological organism and responsible self".² To try to separate the two at any stage is to enter the realm of pseudo-scientific guesswork, the conclusions of which are neither verifiable nor particularly helpful.³ It is possible to say no more than what seems probable about

¹Curran, p. 188; C. Henry Peschke, Christian ethics, vol. 2 (Alcester and Dublin: C. Goodliffe Neale, 1978), pp. 354-355. According to O'Mahoney, pp. 401-402, research also indicates the possibility of twins being re-fused into one shortly after they have split. O'Mahoney is convinced by the data that "one cannot say anymore with certainty that the conceptus is a human being from the time of fertilisation."

²Harmon L. Smith, p. 50.

³The same could be said, of course, about speculation concerning the fate of the human person after death. And precisely for the same reasons as are outlined above, I would argue against basing ethical arguments on speculation about life after death. This is not to say categorically that there is no personal life after death, or before conception, but rather that speculation on these cannot help ethically.

the beginning of human personhood in terms of the soul's rationality and/or individuality. That concept of probability is not in itself insignificant, and I shall return to it below. Meanwhile, however, it is appropriate to turn to proposals which are more accessible to the tools of earthly logic.

(4) The argument from rationality

To reject the formula which equates personhood with soul-possession does not altogether dispose of the argument that a human person must of necessity have the capacity to function rationally. Kluge, an analytical philosopher who rejects "soul-talk" in no uncertain terms, nevertheless comes to the same ontological conclusion as did Donceel, Ruff and Häring: the foetus is to be considered a person when it possesses a developed cortex. There is a certain integrity in arguing that rational capacity makes people persons, but this, too, cannot be asserted dogmatically. Is not rationality simply an arbitrary line of distinction? The development of the brain is significant only if it is presupposed that rationality distinguishes homo sapiens from other animals, but how is this verifiable? Would a dolphin be categorised as human if it were shown that in some sense dolphins have the capacity for rational thought? Do human beings demonstrably think more clearly than dolphins? And even if so, why pick on rationality as "the" mark of personhood? What would this say about the personhood of people who are grossly mentally retarded? It seems to me that while the concept of rationality is hard to exclude from a range of factors which should

be taken into account when considering the probabilities concerning human personhood, in itself it suggests more questions than it answers.

(6) The argument from viability

In the criminal law of many countries, and in much popular medical practice, a distinction is made between early and later periods of foetal development on the basis of viability. It is often held that the foetus is not viable--that is, incapable of life outside the womb--until the pregnancy has reached its twenty-sixth or twenty-eighth week (though sometimes doctors attempt deliveries as early as the twentieth week). Peschke notes that one usually refers to miscarriages in the earlier periods of pregnancy, and to premature births when the stage of theoretical viability is reached, even if in both cases the foetus is born dead.¹

There are no doubt good reasons for medicine to have such a rule of thumb to delineate between deliveries in early and late pregnancy, but for moral purposes it seems arbitrary in the extreme. No doubt medical science will continue to produce surprising technologies in maintaining the lives of prematurely born infants, so that a non-viable foetus in the 1980s may be viable to in the 1990s. To argue that such a foetus is not a person today, but would be a person if a certain technology were developed, would, of course, be absurd in an ontological sense.

In more fundamental terms, too, how viable is a new-born baby? It is still totally dependent upon others for

¹Peschke, p. 353.

sustenance, clothing, and life itself.¹ As Häring points out, "the fact that (the foetus) cannot survive outside its natural habitat does not allow one to deprive it of the life-saving environment"²--any more than the non-viability of an adult in space would make it permissible to deprive an astronaut of his/her space-suit!

The argument from viability, then, presents yet another seemingly arbitrary line of distinction as to the presence of human personhood in the foetus. Nevertheless, the fact of physical dependence on the mother is by no means morally insignificant. No human being is viable in an absolute sense. Everyone--including adults and children as well as babies and foetuses--is dependent on others. The "others" include society at large as well as people with a more immediate and intimate responsibility for one's welfare. Babies are particularly dependent on adults. But a foetus is uniquely dependent on one particular person, its mother. A baby is viable in a relative sense as compared with a foetus, in that the foetus, before a certain stage of pregnancy, will die if it ceases to receive support from its mother, whereas the later foetus and the baby can be cared for by another person, and survive. This special dependency cannot be ignored when the time comes to assess the pregnant

¹See Willke, p. 22; Kluge, p. 31; John T. Noonan, The morality of abortion (Cambridge, Massachusetts: Harvard University Press, 1970), ch. 1.

²Häring, p. 97.

mother's special ethical responsibilities. The significance of this point will become clear later.

(6) An uncertain humanity

After completing a brief analysis of all these proposals about the beginning of human personhood, one remains as uncertain as ever. On this question, it seems to me, everyone should be willing to confess to some doubt. No one can prove an answer, and there is not even an authoritative answer to be found in Scripture or tradition (see below). But the nature of this doubt is important. It is not the same kind of doubt as is to be found, for example, in questions like "is it right to kill in the cause of revolution?" or "is it a sin to smoke?". It is not an ethical doubt, but an ontological doubt. The problem is that ethical reflection on the matter of abortion is useless without some tentative decision, at least, on this ontological question of what a foetus is.

I have attempted to show the fallacies contained in the various popular arguments for locating the origins of personhood sometime after conception. But it does not follow that it is unfallacious to state that the fertilised ovum is from the beginning a person. Indeed, that solution seems extremely implausible, if only because of the data I have mentioned concerning the splitting of the blastocyst into multiple concepti. Even the concept of a person who does not have a cerebral cortex is rather improbable.

How, then, does one deal with doubt on this level? The matter of doubt and probabilities is one to which

Catholic moralists have given detailed attention for centuries, and it may be enlightening to explore the various systems they have developed for resolving the problem.

Traditionally, the question is framed in terms of "law" and "liberty". If doubt exists, when should the opinion for law be followed (that is, the option which would safely not contravene any moral rule), and when should the opinion for liberty prevail (allowing action which could possibly be wrong). F.J. Connell summarises the general answer as follows:

When a person is in doubt about the morality of performing (or of omitting) an action, he must either follow the opinion for law or settle the doubt with practical certainty in favour of liberty before he performs (or omits) the action.¹

On that, most Catholic scholars agree. Where they would diverge is on the meaning of "practical certainty". In other words, as Connell himself puts it, "theologians differ as to the degree of probability required before one may follow the opinion for liberty."²

There are seven easily distinguished "moral systems" of probability, ranging from rigorism to laxism. Rigorism holds that wherever there is doubt, whatever the probabilities involved, the opinion for law must be followed. Laxism holds the opposite: that even the smallest probability

¹New Catholic Encyclopedia, 1967 ed., s.v. "Doubt, moral," by F.J. Connell.

²Ibid.

will justify liberty. The most commonly followed systems today, however, are those of probabilism and equiprobabilism. Probabilism holds that, in the words of the sixteenth-century Dominican Bartholomew Medina, "if there is a probable opinion, it is lawful to follow it, even though the opposite is more probable." Equiprobabilism is a more moderate system, developed by St Alphonsus Liguori in the eighteenth century. It holds that an opinion for liberty may be followed if it seems equally probable to the opinion for law, but where the opinion for law is more probable, the latter should be followed.¹ But (and this is a crucial "but") these considerations of probability are generally held to fall away when there is a danger of inflicting physical harm or spiritual harm to oneself or to others.² In such a case, the opinion for law must be followed, however much greater may be the probability for liberty.

¹New Catholic Encyclopedia, 1967 ed., s.v. "Morality, systems of," by F.J. Connell. Bernard Häring, Free and faithful in Christ: Moral theology for priests and laity, vol. 1: "General moral theology" (Middlegreen: St Paul Publications, 1978), pp. 284-294, has shown that the development of probabilism (in which general category he includes St Alphonsus's modifications) was a great advance over rigorist tendencies, in that Catholics were now allowed a fair amount of freedom to take the moral risk of following their consciences in cases of doubt.

²Considerations of probability also fall away when there is a danger to the validity of a sacrament, but that is not of concern here.

³New Catholic Encyclopedia, s.v. "Morality, systems of."

In short, the generally accepted Catholic teaching is that where there is doubt, Christians are free to follow the promptings of their conscience based on their intuitions concerning a balance of probabilities. But where there is a danger of bodily or spiritual harm being inflicted on a person, the safest course of action (that is, the course that will not contravene a moral rule) is always the right one.

Clearly, the current Roman Catholic teaching on abortion is based on this tradition. The Roman magisterium has conspicuously avoided dogmatic assertions about the point at which human personhood begins, leaving open the question whether the foetus possesses a soul from conception or from some later moment. Instead, a practical rule is laid down, and rigidly applied: Christians should behave as if human life were present in the conceptus from the beginning.¹ Canon 747 thus requires that the live foetus--however young--be baptised in the event of an artificial or natural abortion. In effect, this approach gives life the "benefit of the doubt".² In other words, the magisterium implicitly acknowledges that there is doubt about whether the conceptus is human from the beginning, but holds that because of the risk that a human person may be in danger, this is not a matter for probabilistic analysis, but rather for strict application of law. Thus the "Declaration on Abortion" of the Sacred

¹Harmon L. Smith, p. 29; O'Mahoney, p. 400.

²Willke, p. 14.

Congregation for the Doctrine of Faith:

From a moral point of view this is certain: even if a doubt existed concerning whether the fruit of conception is already a human person, it is objectively a grave sin to dare to risk murder.¹

In view of all the doubts that have been revealed in the survey of theories with which this chapter began, and in view of what has been said about the seriousness of the act of homicide in general, this "safety first" approach seems a reasonable one. But Carol A. Tauer has questioned the validity of dismissing probabilistic considerations in the case of abortion. She shows convincingly that the Sacred Congregation's declaration proceeds from an uncertain position on ensoulment to a certain moral conclusion, and says this is not within the tradition on probabilism because the doubt concerns a theoretical, rather than a factual, matter.² According to Tauer, the tradition of taking the safest course where there is danger of harm occurring, is one which is normally applied to cases of factual doubt. For example, if a hunter is uncertain about whether a movement in the bushes was made by the hunted animal or by a fellow hunter, he should not shoot. Even if it is considerably more probable that the movements were made by an animal, the safest course is not to shoot before making certain.

¹Carol A. Tauer, "The tradition of probabilism and the moral status of the early embryo," Theological Studies 45, 1: 9.

²Ibid., p. 14.

But that is not analagous to the nature of the doubt in the matter of the status of the foetus. In the latter matter, the doubt is not factual, but theoretical, since it cannot be resolved even in principle by empirical investigation, but is rather a question of philosophical speculation. Tauer argues that theoretical doubt is logically far closer to the concept "doubt of law" than to the concept "doubt of fact", and thus the moral doubt about abortion lends itself to being solved in the manner in which doubts of law have traditionally been, and should be, resolved--by probabilistic methods. Since there are strong reasons (which I have already mentioned) why the probability of personhood is slight for the early embryo, the theoretical doubt concerning abortion in the early stages of a pregnancy should be resolved in favour of liberty--that is, for the option of abortion.¹

This is an audacious claim for a Catholic theologian: that traditional Catholic approaches to resolving moral doubt would, if consistently pursued, contradict current dogma by permitting abortions in early pregnancy. Responding to Tauer's article a year later, Lisa Sowle Cahill questions the idea of equating the concept "theoretical doubt" with the concept of "doubt of law". After all, she writes, "ontological assertions are claims about what 'really' is the case, even if not immediately confirmable."²

¹Ibid., pp. 3-33.

²Lisa Sowle Cahill, "Notes on moral theology," Theological Studies 46, 1: 74.

Cahill would prefer a more direct challenge to the narrow traditional (empirical) conception of a "fact", and to the "absolute prohibition on resolving a doubt of fact regarding life in favour of a solidly probable (or even more probable) negative hypothesis."¹

Regardless of whether Tauer or Cahill is correct, the dispute over probabilism helps to clarify the nature of the primary doubt facing the ethics of abortion. Quite clearly, the initial instinct which says "better safe than sorry" concerning this doubt, is superficial. This is not a matter like the hunter in the bushes. Everyone knows what is "in the bushes" in this case: it is a foetus, and everyone knows what a foetus is. What we do not know for certain is what to make of the foetus--how to interpret its existence. The hunter can solve his or her puzzle by waiting and seeing what emerges from the bushes (even if, unfortunately for the hunter, the beast might get away as a result of the cautionary zeal). The rest of us cannot resolve our puzzle by exploration or by waiting: the mystery of the foetus will endure. The official Roman Catholic teaching is to recognise the doubt and then ignore the doubt in counselling action. That seems an untenable position, where the consequences of the "safety first" course can include anguish and even death for the mother. Moreover, as Dr Glanville Williams has shown, no one consistently behaves as if the conceptus is always a person:

¹Ibid.

We do not regard a miscarriage, when it occurs naturally, as the death of a human being--even as an accidental death. This attitude is reflected in the law. A foetus that is spontaneously aborted before the end of the seventh month can be buried in the back garden or put into a hospital incinerator. No statutory notice of birth need be given. There are no obsequies. Even the Roman Catholics, who now generally maintain that this foetus has a soul, do not perform a funeral service . . .¹

More appropriate than ignoring the doubt would be a method of balancing the probabilities in decision-making about abortion. For example, a case could far easier be made for aborting a two-day-old pregnancy than one which is in its sixth month, if there were a sound reason for the act. However unverifiable the various arguments about rationality, ensoulment and individuality might be , together they provide enough doubt concerning the early embryo to allow for probabilistic considerations to be a factor in the moral decision--which would mean distinguishing between abortions in the various stages of pregnancy, in balancing the negative act of ending a pregnancy against other conflicting values.²

¹John A.T. Robinson, Christian freedom in a permissive society (London: SCM Press, 1970), p. 54.

²I am reluctant to be more precise about the developments of the pre-natal being, as that could lead to my proposals being misunderstood as an attempt at some kind of positivistic formula. I am proposing something rather more complex than that--and admittedly more subjective. The balancing of probabilities should be one component aspect of decision-making about abortion. However, it may be wise to give some

The degree of uncertainty over the nature of pre-natal life should also be remembered when contemplating characterisations of abortion as murder or infanticide (which are rather frequent among the "right-to-life groups). If

kind of idea of the time frame that I perceive to be relevant--especially as it is somewhat shorter than might otherwise be supposed by a reader unfamiliar with the pace of development of the conceptus:

(1) In the first two weeks of pregnancy, the probability of personhood is very slight, as the zygote and the blastocyst do not, for reasons I have explained, have any likely claim to individuation, which must be a basic aspect of personhood.

(2) The development of the cerebral cortex begins between the fifteenth day and the twenty-fifth day, and is usually complete by the fortieth day. It could therefore be deduced that--if one attaches great significance to the capacity for rationality as a quality of human personhood--there is a relatively low probability of personhood in the first month of pregnancy.

(3) After that initial month, the probability of personhood in my view becomes very rapidly higher. There will be those, however, who will attach greater significance than seems apparent to me to the viability factor, and this would for them become a third variable. Those who follow this line of argument would disagree about the definition of viability--varying between twenty and twenty-eight weeks as the cut-off point.

To put it as plainly as I dare, given my readily conceded lack of qualifications to be discussing these anatomical matters, I find it hard to foresee instances where doubt over the probability of personhood would be a significant factor in decision-making after the first month of pregnancy, and even within that first month the probability would increase dramatically after the first fourteen days. This certainly means that, given the usual delay in ascertaining the fact of pregnancy,

one cannot be sure that the foetus is a human person, then it is surely unacceptable to condemn so dogmatically those who take an opposite opinion concerning the "right to life" of that nascent being.¹ On the other hand, the uncertainty is also sufficient to ensure that the abortionist will never be able to be morally sanguine about his or her act. Whether or not the foetus is a person is so inaccessible a question that the act must be preceded by serious ethical self-examination. And the more developed the foetus is, the more probable it becomes that abortion is, in fact, homicide.

Could it be that Bonhoeffer is right to suggest that the whole argument is irrelevant anyway? It is not, he writes, a question of whether or not the foetus is already human, but rather a matter of the divine intent. God intends a human life, and "this nascent being has been deprived of the right to life. And that is nothing short of murder."² Similarly the Jesuit John R. Connery states that not animation or humanisation but the destiny of the foetus as a human being is at stake in the church's

it is going to be relatively rare for the probability factor to be a significant consideration in concrete cases of abortion-related dilemmas (although some useful applications are named below). (For a moralist's analysis of the stages of pregnancy, see Häring, pp. 75-85.)

¹Curran, p. 173.

²Dietrich Bonhoeffer, Ethics (London: SCM Press, 1955), p. 150.

teaching.¹ But this idea of determining God's intent by simple observation of natural processes and "not interfering" does not commend itself. All exercising of human responsibility is to some extent or another an interference in what God may be thought to either intend or not intend. Who can know what the destiny of any living person or thing is, or what God intends about life and death? Doctors interfere with the natural process every time they save a life--or even spare a person pain. Possibly even in some instances God intends that a pregnancy should be terminated, so that an endangered mother should live, or so that a gruesomely deformed foetus may be spared the pain of life, perhaps--in the same way that in popular spirituality God is often said to have spared a dying person further suffering by speeding his or her death!

I suggest that the most reasonable conclusion about the moral status of the foetus is that there is a prima facie case for treating it as if it were a human being--but only a prima facie case. From the very earliest to the latest stage of pregnancy, the being in the womb has important deficiencies in the quality of its life, and is in a significantly different position vis-à-vis its mother as compared with an infant, child or adult. Moreover, the less advanced the stage of pregnancy, the less probable it is that the foetus can be a human person in the sense of having individuality, rational capacity and/or viability. On the other hand, because of the ontological uncertainties

¹John R. Connery, S.J., "Notes: Abortion and the duty to preserve life," Theological Studies 40, 2: 319-320.

involved, the only proper context for assessing the case for abortion in any instance must be the ethics of homicide--even though within those ethics there must now be found a place for a unique process of balancing probabilities concerning the human personhood of the victim.

4.2 A cautionary heritage

It is now clear that a study of abortion has to take place within the context of the ethics of homicide--even if the ethics of abortion will have certain distinct methodological features (concerning probability) within that framework. This chapter on abortion is therefore subject to the methodological restraints that apply to other forms of homicide, and one of the linguistic presumptions that must thus be taken into account (number 3.6) prevents any further discussion on the matter without a survey of biblical and traditional theological principles. I have already shown that the Canon contains a bias against homicide in general, but upholds no absolute right to life. However, the question must be asked whether the Bible reveals a more absolute ethic regarding pre-natal life and death.

The answer is no. There is only one direct biblical reference to the termination of pregnancy, and that refers not to intentional abortions but to accidentally induced miscarriages. Exodus 21:22-25 applies the lex talionis to cases where a woman comes between fighting men and miscarries as a result--but only where this results in harm to the woman (the foetus's welfare is clearly not an issue). If the woman survives the miscarriage without further injury, the rule of eye-for-eye, life-for-life does not apply, although the guilty party is fined.

Ettlinger points out, however, that in the Septuagint version of the text, there is a shift of focus towards the foetus.¹ In any event, neither editorial version amounts to an authoritative norm given the predisposition in this study against isolated texts. Häring suggests that Paul's reference to pharmakeia² in Galatians 5:20 as one of the fruits of self-indulgence could include abortion along with "any other use of drugs with magical and inimical intentions,"³ but there is no evidence to suggest Paul intended to include abortion under that heading.

Where Christians have purported to find a special biblical concern for pre-natal life, they have pointed to less direct references. The CPSA Report, for example, states that a number of texts give Christians cause "to have real concern for the status of the foetus even in its earliest stages."⁴ The commissioners cite Matthew 1:20 and Luke 1:15 (on the nascent life of Jesus and of John the Baptist), as well as Psalms 139:12-16 and Jeremiah 1:5. These texts do appear to indicate something of a divine plan for nascent life, and the Jeremiah text goes one step further back from conception: "Before I

¹Gerard H. Ettlinger, S.J., "The value of human life in Judaeo-Christian perspective," in Human life: Problems of birth, of living, and of dying (New York: Fordham University Press, 1977), p. 10.

²Pharmakeia is usually translated as "sorcery" or "witchcraft": compare Rev. 9:21; 18:23; 21:8; 22:15.

³Häring, p. 99.

⁴CPSA Report, §5.0.

formed you in the womb, I knew you; before you were born, I consecrated you."¹ The Hebrew parallelism clearly indicates that the divine plan precedes even the genotype! Were such texts to be given ethical authority, not just abortion but also contraception (artificial and "natural") would have to be seen as potential disruptors of God's plan for a person's life. But the context of the texts is spiritual, not ethical, and they should not be stretched too far.

Scripture fails, then, to present a consistent picture helpful to the ethics of abortion. This seems not to have been a concern that occurred to the biblical writers. Their silence could be interpreted speculatively as implying a permissive view, or a presupposition that abortion is wrong, or even an assumption that no one would want to terminate a pregnancy.² But none of these proposals is verifiable.

After the biblical age, however, Christians began to think in a more disciplined way about the matter of abortion, and today the Christian church has access to an impressive array of doctrines on the matter.

One of the earliest extant non-Canonical writings, the Didaché, describes abortion as murder. So do various other early Christian texts, including the writings of Athenagoras, Clement of Alexandria, and Tertullian. Abortion

¹Italics mine.

²See C.E. Cerling, Jr., "Abortion and contraception in Scripture," Christian Scholars' Review 2, 1 (1971): 42-58.

was prohibited in the legislation¹ of the early Christian empire.²

St Augustine, however, distinguished between the formed and the unformed foetus: the former, he ruled, was a person, and to kill that person was murder. St Thomas Aquinas specified that the soul is infused into the body at forty days in the case of males, and at eighty days in the case of females. The seventeenth-century theologian Torreblanca, in the same tradition, ruled that abortion is permissible if the foetus is unformed, and if the operation is necessary to save the life of the mother--or even to save her reputation. Torreblanca's contemporaries and successors were divided on this view, but Pope Innocent XI condemned it in 1679, and the distinction for moral purposes between the various stages of a pregnancy has since disappeared from official Roman Catholic teaching. Canon 747 decrees that even the smallest living foetus should be baptised, and thus clearly rejects the earlier distinction between the formed and the unformed foetus, implicitly supposing (though this is not a matter of dogma) that every foetus possesses a soul.³

In his 1930 encyclical Casti Conubii, Pope Pius XI held that foetal life is "equally sacred" to the life

¹Codex Theodosianus, 4.9.2 (A.D. 412).

²Ettlinger, pp. 11-12.

³Ibid.; Curran, pp. 176-177; Harmon L. Smith, pp. 26-30.

of the mother, and termed direct abortion--even on the grounds of medical emergency--as "direct murder of the innocent." Pope Pius XII reaffirmed this teaching in 1951:

Innocent human life, in whatsoever condition it is found, is withdrawn, from the very first moment of its existence, from any direct deliberate attack. This is a fundamental right of the human person, which is of general value in the Christian conception of life; hence as valid for the life still hidden in the womb of the mother, as for the life already born and developing outside of her; as much opposed to direct abortion as to the direct killing of the child before, during or after its birth. . . . All these cases involve a grave and unlawful attack upon the inviolability of human life.¹

Pope Pius XII permitted indirect abortion, however--a distinction to which I shall return. Modern Catholic writers tend to continue to regard direct abortion as murder, and the present pope has reaffirmed this position several times.²

The Protestant position on abortion, as the CPSA Report both notes and demonstrates, is "less clear-cut". While the value of human life is everywhere upheld in general terms, together with the right of innocents to be protected from wilful assaults, some circumstances are allowed by Protestant theologians to permit direct

¹Curran, p. 172.

²Ibid., pp. 174-177; Harmon L. Smith, pp. 26-30; Peschke, pp. 357-359; Jessma Blockwick, "Pro-choice is pro-life," Engage/Social Action 11 (December 1979): 41-46.

abortions. At this stage I am still in search of a consistent rule, and I shall not enter into the casuistry until a little later. There is no such rule to be found in the Protestant domain.¹

More will be said about the current prevailing positions below. But the time has come for this quest for a historical norm to yield to contemporary and contextual analysis. Certainly Scripture does not provide the kind of consistent rule that is contemplated by presumption 3.6, and while Catholic tradition, especially in the past three centuries, has been increasingly single-minded in condemning abortion, most Protestants allow themselves more latitude of conscience. What Protestants and Catholics share might be described as a cautionary heritage--a historical fountain of sobering reminders that human life is something to be closely guarded, and therefore foetal life is not available to be casually dispensed with.

¹On the contrast between the Catholic and Protestant traditions on this matter, it may be noted that the Catholic doctrine has the advantage of saving doctors and parents from the awesome responsibility of having to take decisions on this matter. However:

Dean Fitch's analysis of internal tensions in (the) two branches of Christendom is altogether apposite here: "There is a Catholic strength, and its name is order. There is a Catholic sickness, and its name is tyranny. There is a Protestant strength, and its name is liberty. There is a Protestant sickness, and its name is anarchy." Notwithstanding the force of this observation, even a cursory look will remind us that as among Catholics there are exceptions to rules and conscientious limits to tyranny, so among Protestants there are boundaries to liberty and dykes against anarchy. (Harmon L. Smith, p. 35.)

There does not, however, appear to be a valid a priori reason why the life of a foetus should be inviolate while the life of a child or an adult may be destroyed under a variety of circumstances. If, as the discussion so far in this thesis indicates, homicide is ever ethically justified, then the ethical killing of a foetus, too, must be plausible in theory, and the various motivations for such an act must be assessed in the same way--and subject to the same methodological restraints--as must revolutionary violence and the various other "grey area" forms of homicide. Thus this discussion must now move on to take account of the various situations in which pregnant women find themselves considering the option of abortion.

4.3 Assessing the act of abortion

The primary presumption of this thesis is that while the Sanctity-of-Life Principle is not a viable absolute, the burden of proof weighs against all justifications of homicide. Since abortion must be assessed within the context of the morality of homicide, the arguments which have been produced to make a case for abortion under specific circumstances must now be assessed in turn.

(1) Killing to save a life:

therapeutic abortion

Compare the following two statements:

The members of the Commission agreed that in a case where, to quote the South African Act, "continuing pregnancy endangers the life of the woman concerned or constitutes a serious threat to her physical

health" (e.g. severe diabetes, hypertension, heart failure, etc.) abortion may be permitted. The grounds of such a decision are that, over against the rights of the foetus, the rights of the mother and those dependent on her must be weighed. She herself has entered upon life and has entered into a variety of relationships; others will be dependent upon her, and her claim (and theirs) must be given priority.¹

It is never permissible to commit a sin, a moral evil, in order to prevent any other evil, physical or moral. It is preferable by far that a million mothers and foetuses perish than that a physician stain his soul with murder.²

Both statements refer to the situation in which a choice has to be made between direct abortion to save the life of the mother, on the one hand, and allowing both the foetus and the mother to die, on the other. The second statement puts the official Roman Catholic view that it is better for both to die, upon the grounds that direct abortion is always, under all circumstances, a moral evil. The doctor would sin in killing the foetus, but not in allowing it to die with its mother. The first statement puts what has become nearly a universal position of mainstream Protestant orthodoxy: that in such a situation the rights of the mother take precedence over those of the foetus (if any such conflict exists), and it would therefore be wrong to oblige the mother to die by refusing to perform an abortion.

¹CPSA Report, §7.2.

²Edwin F. Healy, quoted by Marvin Kohl, The morality of killing: Sanctity of life, abortion, and euthanasia (London: Peter Owen, 1974), p, 40.

At first glance, presumption 2.2 appears to challenge an act of therapeutic abortion. How can the powerless fetus be killed because of a preference for the life of the more autonomous mother? This presumption for the powerless makes it impossible simply to dismiss the matter of therapeutic abortions in life-saving situations as self-evident--as the CPSA commission was content to do. The paragraph quoted above is the report's only reference to this particular form of the abortion dilemma: there is no attempt to justify the conclusions contained therein. There is not even a recognition that life-saving abortions constitute a dilemma for many Christian doctors.¹

Only in the present century has there been a clear trend in Roman Catholic theory towards an absolute prohibition on therapeutic abortions. The tradition of permitting a life-saving abortion goes back to Tertullian, although between the fifteenth and seventeenth centuries a distinction was made between the unanimated and animated fetus in this connection.² Twentieth-century magisterial teaching, as I have mentioned, does not countenance abortion under any circumstances at all. Arguing strongly against the official view, Peschke admits that the direct killing of an innocent human being is always immoral, and that in no reasonable sense can the

¹John R. Connery, "Eugenic abortion," in Human life: Problems of birth, of living, and of dying, ed. William C. Bier (New York: Fordham University Press, 1977), p. 109, claims that with the advance of medical science the situation in which doctors must choose between abortion and the death of the mother never arises today. Most writers disagree.

²Peschke, pp. 359-360.

foetus be considered an "unjust aggressor"--whether materially or subjectively speaking.¹ But where it is reasonably certain that both the mother and the foetus will die unless there is intervention, Peschke suggests the dilemma is justly resolved by the realisation that life itself is not the highest good:

The highest good, besides a person's eternal salvation, is the realisation of God's plan with mankind and the world. This plan also includes the unfolding of his creation. Viewed in this perspective, the anticipated death of a foetus constitutes a lesser evil and offends against a lesser right than the death of mother and child together. Because the mother can still contribute, and perhaps much contribute, to the realisation of God's plan with the world. This is especially evident if she is the mother of several children; but it can also be shown in other regards. The foetus, on the other hand, who is unable to survive the mother's death, is therefore also unable to contribute to God's creative plan. Hence his right to be kept alive for some days more must yield to the higher claims of the divine plan, which demands that the mother's life be saved, if necessary by the direct removal of the unviable foetus.¹

Bonhoeffer takes the opposite view:

If the child has its right to life from God, and is perhaps already capable of life, then the killing of the child, as an alternative to the presumed natural death of the mother, is surely a highly questionable action. The life of the mother is in the hand of God, but the life of the child is arbitrarily extinguished. The question whether the life of the child is of greater value can hardly be a matter for a human decision.³

¹See above, pp. 95-98.

²Peschke, pp. 363-364.

²Bonhoeffer, p. 150.

I have already referred to this false distinction between what is natural or intended by God, on the one hand, and what is medically recommended on the other. The doctor, in acting to preserve life and health, is always in conflict with the "hand of God" seen in this narrow sense, but in a broader sense, the doctor, in carrying out the vocation of a healer, could be said to be the hand of God in foiling, or delaying, the natural tendency towards death. In the instance now under discussion, the doctor's choice is what will decide between the life of the mother and the death of mother and foetus. If the matter is left in the "hand of God", a decision has almost certainly been made: that the mother will die with her foetus.

Roman Catholic moral theology takes a small step towards recognising this dilemma in some situations by distinguishing between direct and indirect abortions. Direct abortions are instances where the foetus is simply removed from the mother's body, or delivery is artificially induced--either way, killing the foetus. In indirect abortions, the removal of the foetus is incidental to another procedure aimed at preserving the mother's life. By the principle of double effect, indirect abortions are not wrong, because abortion was not the intent of the procedure, but rather a secondary effect. This principle allows doctors to save a pregnant woman's life at the cost of the foetus's life, so long as this happens in the course of a procedure not aimed directly at terminating the pregnancy--for example, the necessary removal of a diseased uterus.¹ Häring, however, disputes

¹Connery, "Notes," p. 322.

the helpfulness of the distinction. He quotes a case history reported by an anonymous gynaecologist:

I was once called upon to perform an operation on a woman in the fourth month of pregnancy, to remove a benign uterine tumour. On the womb, there were numerous very thin and fragile varicose veins which bled profusely, and attempts to suture them only aggravated the bleeding. Therefore, in order to save the woman from bleeding to death, I opened the womb and removed the foetus. Thereupon the uterus contracted, the bleeding ceased, and the woman's life was saved. I was proud of what I had achieved, since the uterus of this woman, who was still childless, was undamaged and she could bear other children. But I had to find out later from a noted moralist that although I had indeed acted in good faith, what I had done was, objectively, wrong. I would have been allowed to remove the bleeding uterus with the foetus itself, he said, but was not permitted to interrupt the pregnancy while leaving the womb intact. He informed me that my intervention constituted an immoral termination of pregnancy, even though the purpose was to save the mother, whereas the other way would have been a direct lawful intention (prima intentio) and action to save life as in the case of a cancerous uterus. For him, preservation of the woman's fertility and in some cases, preservation of the marriage itself, played no decisive role.¹

Häring believes the "noted moralist" who advised the doctor to have been wrong, even though the moralist was probably reflecting accurately the prevailing official view. Since the doctor could determine with great moral certainty that there was no chance for both mother and foetus to survive, he was, in Häring's view, right to take advantage of the

¹Häring, pp. 108-109.

only available opportunity to "serve life". He thus saved the life of the mother, preserving her fertility, while not affecting one way or another the fate of the foetus. In this case, at least, the distinction between direct and indirect abortions had no effect on the foetus, but made every difference to the mother: direct abortion being far preferable, from her point of view. The same argument applies to every case where an abortion is needed to save the life of the mother of an unviable foetus. The foetus will die anyway, while the mother can be saved. In such a case, direct abortion seems clearly to be the desirable course.¹ A morality which ignores the possibility of saving a life, in obeisance to some grand but abstract moral principle, fails to take seriously the co-responsibility for creation that has clearly been placed in human hands.

In my opinion, then, the case for most emergency abortions--that is, abortions required immediately in order to save the life of a mother of an unviable foetus--is a secure one. It may be argued that doctors can err in saying that the mother is dying and that the foetus is therefore doomed. Of course it is true that doctors can err. No doubt there

¹Sometimes not only the mother's life but that of a second foetus may be saved by killing its twin. The Star, Johannesburg, reported on June 19 1981 that doctors at New York's Mount Sinai School of Medicine had punctured the heart of an abnormal foetus to destroy it, while leaving its normal twin to survive and be born four months later as a healthy baby. This was the second such operation to be performed in the world, and was apparently completely successful. The doctrine against direct abortions would have prohibited it.

are anecdotes being told somewhere in the world concerning a mother having made a heroic choice for her foetus and having delivered safely, despite a doctor's prediction of death.¹ Doctors who regard a foetus with the reverence appropriate to even nascent human life, are no doubt especially careful in making their prognoses, but they too are fallible. This fallibility cannot, however, be considered ample reason to conclude that a therapeutic abortion intended to save the life of a mother where the death of the foetus is almost certain on the basis of all known medical facts, is not justified. Doctors, like anyone else, must make their decisions carefully, and knowing they are fallible, but cannot avoid the business of deciding simply by virtue of the fact that they could be wrong.

Since I have already referred to the relevance of the stages of pregnancy in determining the probability that the foetus is a human person, it should be added here that the stage of pregnancy is almost irrelevant with regard to emergency therapeutic abortions. Even if one assumes for the sake of argument that the foetus is certainly a human person at the time of the operation, none of the above arguments would be adversely affected. Indeed, that assumption has already been made in applying, and conscientiously disregarding, the presumption for the powerless person!

The exception to the general rule for direct abortion in case of life-threatening emergency, would be the rarer case when a genuine choice must be made between the life

¹I have not come across such a case in the literature.

of a foetus and the life of its mother. Here, the rule is not so simple, because the presumption for the powerless is indeed appropriate. This choice can occur where a foetus is not yet viable, but has a reasonable chance of surviving the pregnancy even if the mother is likely to die in labour or indeed after delivery as a result of the continuation of pregnancy. For example, the case of Marianne Hill could be mentioned. She was diagnosed while pregnant as having cervical cancer, and advised to have chemotherapy and/or radiotherapy. She declined both for the sake of her foetus, and died nine months after giving birth to a healthy son. After declining an abortion, she was reported to have told a friend: "That would be like lining two people against a wall and saying, 'shoot him--I don't want to die'."¹ In such a situation as that faced by Hill--but fortunately faced by few mothers--it is hard to deny the force of the presumption for the powerless. That presumption, however, is not the end of the argument but only an indication of the need for careful utilitarian calculation. There may be other factors that lend weight to the need to preserve the mother's life--such as, most obviously, the needs of other less-powerful parties, including the mother's other dependants. Additional situational factors might arise such as those considered later in this chapter. Further, the extent to which the pregnancy has developed may well be relevant here, adding a calculation of probability concerning the human personhood of the foetus to all the other complexities.

¹The Star, Johannesburg, August 12 1981.

Each case is unique, and it is not possible to make absolute judgements about all cases of this "type". What should certainly be recognised in each case is the agony which would be involved in making the choice.

This rare instance aside, though, an absolute statement can be made about the morality of direct abortions where the choice is not between woman and foetus, but between the mother's life and the death of both mother and foetus. In such a case, direct abortion is the right course (assuming everyone involved consents to the procedure).

(2) Killing "in case of emergency"

If one puts aside for a moment the complexities of the morality of killing nascent life, and recalls the arguments about homicide outside the womb, one will recall that both Protestant and Catholic moralists are agreed that there are many factors, rather than simply defence of the life of another party, which might justify the killing of a person. One might assume reasonably that the same would be the case for killing foetuses, since their personhood is not even certain, but, as has been shown, this is not true in Catholic orthodoxy. Nevertheless, reason dictates that other factors should be considered as providing possible reasons for abortion, apart from threats to the life of the mother, and indeed many such reasons have been advanced. The first group of reasons to be considered may be grouped under the heading of "emergency" indications of abortion, even though these emergencies are not of a life-threatening nature.

Mental health of the mother. It is becoming an accepted

feature of modern abortion-permitting laws (where these exist) that serious threats to health include ~~un~~mental health, and these qualify a mother to have an abortion. It is far from easy to weigh the value of life against the value of mental health. If the reason for the value of life includes any kind of of evaluation of the divine destiny of a person--an aspiration and calling to live in peaceful, creative relationships with God and society--then it is hard to counter an argument which would place the value of life itself and the value of mental health on the same plane. In this perspective, serious mental illness is a barrier to life itself. More basically, of course, serious mental illness can result in suicide or danger to other people's lives, so the issue can become one of life against life.

The subject of abortion for reasons of mental health has received limited attention from moralists, probably because the imponderables are so great. The CPSA Report concludes that abortion can be justified where the danger of continuing pregnancy would be such mental damage that the ability of the woman to enter into and continue relationships of mutual care would be impaired--or that violent behaviour, causing harm to the woman or others, might result.¹ As the report recognises, the major obstacle to any casuistry on this question is a "lack of objective criteria which may be applied in assessing the seriousness of probable mental illness." Psychiatrists are, presumably, at least

¹CPSA Report, §7.3.

as fallible as other scientists in predicting the results of action and inaction--and one imagines, considerably more so, due to the highly complex and unfathomed nature of the human mind. Obviously there must be a clear distinction under this heading between mere unhappiness on the part of the mother and actual grounds for diagnosing a real danger to mental health. There may also be mental sequelae to abortion itself, in the form of unanticipated guilt reactions. But all this presuming leads nowhere. All that can be said is that in theory a serious and highly probable threat to mental health would have to be considered possible proportionate reason for abortion. This consideration would have to be made in the light of the probability of personhood of the foetus (which depends to some extent on the stage of the pregnancy), and simultaneously of the the right of the powerless foetus (to the extent that its personhood is probable) to continue its life (although there is an extent to which a seriously mentally ill person is as powerless as her foetus for the purposes of this presumption).

Eugenic abortion. Recent medical advances have made possible fairly accurate projections of deformity in foetuses. Such deformities have been held by many to justify abortion. The CPSA Report, for example, unequivocally recommends abortion in cases of Down's Syndrome (or Mongolism, a severe mental disorder), Lipoidoses ("because of early death and in most cases blindness and mental deficiency") and anencephalic foetuses (which do not survive after birth anyway). However, the commissioners were divided on whether abortions are justified for hydrocephalic foetuses, and where the

mother has been afflicted by Rubella (German measles) in the early stages of pregnancy, or exposed to X-rays. In these instances the chances of a normal baby are less predictable.

The commission decided as follows:

Where there is doubt under this heading, much depends on the faith and ability of the mother (and her husband and family) to cope with an abnormal child . . .

Nevertheless, the Commission asserts firmly the creative power of God to turn any situation to his praise, including the life of the deformed child and his family. Yet it must also be asserted that it is part of our power and responsibility under God to terminate a pregnancy when the life to emerge is almost certainly incapable of reasonable human relationship and so of the fullness of life which is God's will for humanity.

Careful and informed counselling is important in these cases.

Thus the commission chose not to choose. Its emotional dilemma is clear enough. Apart from the choice between one life and another, there is the need to decide between being led by compassion for the mother, child and family on the one hand, and the awful possibility of homicide on the other. Moreover, one is confronted here by the uncertainty over whether the deformed being in the womb is even to be considered a person--in contrast with the certainly that if the pregnancy comes to term a live person will be born and will live an unenviable life. Here the balancing of probabilities, rights and duties is especially complicated. On the other hand, where (because of a relatively advanced stage of pregnancy) there is a high degree of

¹CPSA Report, §7.5.

probability that the foetus, however deformed, is a human person, it is difficult to admit justification for killing that person because it is deformed. One does not normally think of killing persons morally simply because of their deformities. Burtchaell develops this thought:

. . . Any living individual of the human species is a human, a person. What is being argued in some quarters . . . is that "human" or "person" are special categories of being for which there are minimum performance requirements. This would have us believe that there are humans who are not legal persons. I want to learn wherein this differs from the Hitlerian doctrine that supported the Final Solution to the Jewish Question. Under the Third Reich it was not enough to be a human to keep the right to live. One had to have certain other qualities. Because Jews and gypsies lacked these qualities, they were destroyed. My position is that no one has the power to decide what qualities others must have to avoid being killed.¹

Burtchaell writes this in the context of the status of the normal human foetus, but it seems especially apposite here. Who is to decide that a certain kind of deformity is great enough to warrant killing the deformed one? One is not here concerned with an unjust aggressor threatening the life or mental health of the mother, but at best with abortion "for the foetus's own sake"--to save it from a life of hell on earth. At worst, one may have to contend with conflicting motives on the part of the parents with a view to their own future. The matter of comparing the conflicting values is a complex one. Connery has compared

¹James T. Burtchaell, C.S.C., "Continuing the discussion--How to argue about abortion II," Christianity and Crisis 37 (26 December 1977): 311-313.

eugenic abortion with the ancient Roman practice of infanticide. But (as with Burtchaëll's Nazi analogy) the motivation is usually rather different from preserving a supposed ethnic purity. Here the motivating factor tends to be a genuine compassion for individuals--for their happiness and for their relationships. But it is still probably true that only doubtful morality kills for the sake of an unconsulted victim, and if and when the foetus is a human person, there is little significant difference--aside from a residue of ontological uncertainty--between killing deformed fetuses and deformed children or adults. The eugenic abortion dilemma should never be confronted with less agony than that bald statement suggests.

In both the case of the deformed foetus and that of the deformed child or adult, the presumption for the powerless would thus appear to inhibit the justification of homicide or abortion, where the probability is high that the foetus has developed to the point of achieving personhood.

Diminished responsibility in the mother. This convenient heading is used in the CPSA Report, and here, to group four distinct types of "emergency" indication --or rather, alleged indication--for abortion. The report's casuistry becomes rather intricate at this point, and because the report is interesting here only as an indication of contemporary Protestant thinking, it will have to be summarised as briefly as possible before assessing the arguments in each case.

(a) RAPE: The commission finds that the raped woman is "in a position similar to a country which has been invaded." Thus, in the same way that a just war is always defensive,

abortion is justified in defending the rights of the mother. The woman's "physical integrity" has been violated, and her personality has probably been damaged psychologically. Thus, especially in the case of a young child, abortion is "highly desirable" where pregnancy has resulted from rape.¹

There is no doubt about the seriousness of the invasion of a woman's body, psyche and dignity which is always involved in rape. However, the analogy with an invaded country (even assuming the latter's right to defend itself by violent means) is spurious, since in that case it is the invading army, an objective aggressor, that is the target of reactive homicide, whereas the foetus, not the rapist, is killed in an abortion. Considerations of mental health can play a part in the decision about abortion following rape, but that is a separate, and complicated, issue, as I have shown. In the case of rape, the woman is a powerless party, although the foetus remains powerless relative to the woman (if she is adult and mentally competent). How such a conflict between powerless parties should be resolved is not as easy a matter as is suggested by either the prevailing Protestant view (that justifies abortion as a matter of course) or the Catholic view (that prohibits it as a matter of course).

However, it is in the context of rape that the balancing of probabilities, which has been a slightly significant factor so far in this survey, could become a very significant

¹CPSA Report, §7.4a.

one. I have shown that the probability of personhood in the recently fertilised ovum (i.e. within fourteen days of conception) is very slight indeed. The routine dilation and curettage of raped women--already considered a good idea purely for the sake of preventing anguish even where the morality of abortion is not of great concern--becomes, in the light of this slight probability, a commendable moral solution to the conflict of values presented by pregnancy purusant to rape. In this way, even before a pregnancy is known to exist, the possibility of a person developing in the womb, whose fate would then have to be decided by agonising moral calculations, is avoided altogether, without the probability of having committed homicide being great enough to outweigh the conflicting considerations of compassion for the woman.

(b) PREGNANT CHILDREN AND IMBECILES: The CPSA Report finds that while grounds "might" exist for abortion in the case of an imbecile mother, this would not necessarily be based on similar grounds to the case of rape. "Since she might not be conscious of a sense of outrage, shame or degradation, the same criteria as are applied in the case of rape do not automatically hold," and the baby might be delivered normally and then cared for by others.

This is not always so. Some mentally handicapped women would indeed suffer considerably during pregnancy and labour. There may also be genetic indications for abortion, in which case the analysis of eugenic abortion would apply. Once again, this is a potential conflict between two powerless parties: the foetus and the imbecile mother. Once again, the stage of pregnancy and ontological

probability must be taken into account. But here once again no straightforward rules suggest themselves for resolving the complex conflicts involved.

Similar arguments could apply in most instances when the mother is not yet old enough to make responsible decisions. A large burden of responsibility obviously rests on the mother's parents in such a case.

(c) INCEST: Leaving aside the frequent cases of rape (statutory or otherwise), the CPSA commission failed to reach agreement on the morality of abortion based on the pregnancy having arisen out of incest. "An important but complex factor concerns the possibility of genetic deformity of a foetus," the report notes.

By itself, as I have argued in the case of eugenic abortion, this concern does not provide a compelling argument for abortion.

(3) Non-emergency abortions

In most groups of cases considered above, it is from the viewpoint of the mother that abortions are justified (the exception being, sometimes, the case for eugenic abortion). The life of the mother is at risk, or her rights have been violated, or she may be harmed in some way by the continuation of the pregnancy. Frequently, however, the case for abortion is framed in terms of the interests of the unborn child. The "unwanted child" is characterised as a child for whom life may not prove worth living. The baby born to impoverished parents in overpopulated ghettos will be undernourished and will have little or no prospect of escaping from poverty and a violent environment. The phrase, "quality of life,"

recurs repeatedly in this context, posing the question of how the quality of life can be evaluated against the fact of life. While the interests of parents and family (for example, the interests of the other children, living on the breadline now but facing the prospect of being crowded out in the nourishment stakes by the new brother or sister) are frequently invoked in this type of justification of abortion, these interests are usually held to be secondary to those of the foetus itself.

Nor, of course, is the "quality of life" argument confined to impoverished families. It is invoked also in the case of unwanted children in any socio-economic grouping, based there on psychological factors involving the relationship of an unwanted child to his or her parents, and the mark frequently left by this relationship on the future adult's persona.

The CPSA Report, while stressing that abortion is always a "matter of grave consequence," found that there is a possibility, when quality-of-life considerations are examined, of a choice between two commensurate evils:

The kind of grounds where there could be a choice between evils are where students are involved whose studies could be terminated; where existing families could suffer further and intolerable hardships in poverty and overcrowding; where the whole emotional balance of family life could be seriously threatened; where women could risk losing their employment and their income on which to support existing children; where widows, whose husbands die during the pregnancy, cannot cope emotionally with a child in those circumstances . . .

It is arrogant and insensitive to dismiss all pleas for abortion on socio-economic grounds as being for the mere convenience of the mother. But it is

on these grounds that frivolous claims for abortion most easily slip in, and we need to remember that God's grace can enable people to cope with apparently intolerable burdens. However, we believe that God expects us to enter into the agony of making a decision with responsibility.¹

There is something slightly counterintuitive about this finding when one considers that this same commission failed to agree on abortions for hydrocephalic fetuses and imbecile mothers. Here, apparently, there is an air of toleration in respect of abortions in order that parents' studies not be disrupted, and that the "emotional balance of family life" (whatever that means) not be disturbed--just so long as this does not lead to other, more "frivolous" reasons being "slipped in".

Be that as it may, it is true that non-emergency considerations are probably the most important and urgent class in the debate. A large number--probably most--of abortions are performed for personal, rather than emergency, reasons.² Mr and Mrs Lindermayer, however, are sure that these abortions are not sought on purely selfish grounds:

... . For many--we would venture most--women, there is a crucial . . . element that enters into their deliberations: the well-being of the child that would be. And that quality of life--not their own--is a major reason for terminating pregnancy.³

¹CPSA Report, §7.6.

²See Burtchaell, "How to argue," p. 314.

³Vivian and Eric Lindermayer, "Continuing the discussion--how to argue about abortion II," Christianity and Crisis 37 (26 december 1977): 316-318.

The Lindermayers do not say on what data they base this statement about the motivations of "many" or "most" women seeking abortions. Even if it were true in a particular instance, however, that a woman sought an abortion for the sake of the child within her, on socio-economic grounds, one would be faced with the ethical problem of a person deciding to terminate the life of another being, probably also a human person, without the possibility of consulting the one whose life is to be destroyed for its own sake.

The importance of the concept of quality of life cannot, on the other hand, be ignored. In 1977, 250 ethicists and theologians issued a "call to concern," declaring, in part:

The most compelling argument against the inflexibility of the absolutist position (against abortion) is its cost in human misery. . . . Pro-life must not be limited to concern for the unborn; it must also include a concern for the quality of life as a whole. The affirmation of life in Judeo-Christian ethics requires a commitment to make life healthy and whole from beginning to end. Considering the best medical advice, the best moral insight, and a concern for the total quality of the whole life cycle for the born and the unborn, we believe that abortion may in some instances be the most loving act possible.¹

Having agreed that the right to life, while a primary value, may in principle be challenged by other values in a situation, it is difficult to dispute that circumstances may arise where the quality of life is a concern which overrides the need to defend an actual life. This would, of course, especially be the case in the earliest stages

¹Blockwick, p. 44.

of pregnancy, the probability of foetal personhood being small. Quality of life, however, is an exceptionally vague concept, and it should not be understood in such a way as to avoid the ethical imperative presented by the moral presumptions concerning the ethics of homicide. The possibility of moral dilemmas based on relational and socio-economic factors cannot be ruled out, and, just as in the various emergency indicators of abortion, the decision in the situation is not an automatic one but rather a serious and painful one. Moreover, in any situation there is the possibility that a combination of various factors may present a uniquely weighty set of utilitarian considerations which combine to override the probability that the life being terminated is that of a human person.

Having said that, however, it must also be remembered that abortion is often not the only alternative to the birth of an undesired child. A child can be well brought up by an unmarried mother--with the necessary support of her family and friends and the community--or by adoptive parents or members of the extended family, for example. The possibility exists that after an initial desire, even keenly felt desire, to terminate the pregnancy, a mother can go on to bear, love and rejoice in her child--even a child conceived in the most traumatic of circumstances. In considering the morality of abortion, therefore, the quality-of-life factor can be given undue weight and premature force, and provide a temptation towards an easy, if vaguely conceived, solution which does no justice to the ethics of homicide.

4.4 Who decides?

In analysing the arguments over abortion in various broad categories of circumstance, I have declined, on the whole, to come to hard-and-fast conclusions (save two: that direct abortion is usually the option of preference in the case of a life-threatening pregnancy; and that routine dilation and curettage shortly after a rape is not only a kind act but a moral one). Does this represent a failure? I do not think so. As I showed in Chapter 1, Christian ethics is not a quest for universal laws, nor a search for casuistic lists describing the moral thing to do in various situations. Rather, Christian ethics is a process of examining moral issues from a Christian perspective, with a view not to telling people what to do and what not to do, but to enlightening them in their dilemmas, so that the choices they make are made under the influence of Christian values and of the heritage of theological criticism. Only by following that path can this study be true to the polar presumption (number 2.4) which requires the need for moral guidance to be balanced against the need for freedom of conscience. In this way, Christians are able to weigh their own intuitions as well as their cultural instincts and norms against the disciplined reflections of other Christians in other times and places. Where, then, has this look at the abortion issue led? I have shown that the human foetus is, morally speaking, probably a human person, depending on the stage of its development within the womb. Thus the decision to destroy a human foetus

is one that should be taken only after due consideration of the type and seriousness appropriate to a decision concerning homicide.

Therefore, the one who would seek to abort a pregnancy must ask the same questions as must be asked concerning an act of homicide. Is it an act of self-interest? Does the act amount to exploitation of the powerlessness of the victim? Is the conflict of rights and values involved here a conflict of proportionate values, or is it in the end for spurious reasons that I seek to end this life? If, having asked these questions in a serious way, considering both the high ethical value of human life and the probabilities relating to the fact that the being in the womb is a human person, a decision for abortion can be made in a humble and self-critical way, then what other Christian is in a position to judge the act of abortion harshly? Rather, other Christians must recognise that while a terrible decision has been taken, it has been done as a "necessary evil" in the context of respect for life--one negative act among many that have to be contemplated in a not-yet-perfect world.

When all these considerations are completed, whose decision is it that counts? Some would reply that abortion is a private matter--that is, a matter of private morality--and that the decision is therefore the mother's (where she is physically and mentally capable of making it). I would broadly agree with that conclusion, but not with the reasoning that it is a matter of private morality. It may be doubted whether there is any such thing as an absolutely private

morality, but there certainly cannot be in the case of homicide. In homicide, there are two people involved--the killer and the victim--and probably many more, if one numbers all those who have significant relationships with the two. Abortion is a special type of killing which involves at least the foetus and its mother, but also usually the father, the parents' families, the health-care agents, and others. As with any killing, the whole community is rightly considered to have a right and duty to be involved in some way with the decision--thus the presence in most countries of laws either prohibiting or permitting abortion under certain circumstances. Those who have an interest in protecting the rights of the foetal person, or the potential rights of the potential person, have a right and duty to have a say of some kind in the decision. Obviously, this cannot be applied to mean that outside parties can interfere at will in what is always a traumatic time for a woman and her loved ones, but the law should protect the interests of unborn persons. Thus it is essential, rather than a nuisance, that there should be people in the community with a special concern for advocating the rights of unborn persons, and for educating the public about the responsibilities involved in nascent life.

A pregnant woman, then, should be neither encouraged nor expected to make alone a decision about the termination of her pregnancy. Whether or not she appreciates it, she is making a homicide-related decision, and for the sake of her own spiritual welfare as well as for all the more apparent reasons, she needs to confront that reality

in a serious way. She may need help in recognising the complexities of the decision. For example, she may have been led to think that abortion is always homicide, and that homicide in this case is always equivalent to murder--and thus she could be plagued by excessive guilt feelings even after authorising an abortion for the best of medical or other reasons. If those statements are false (as I have shown them to be), then they should not be allowed to prey on her spirit. She may also need help in discovering both the possible benefits and the possible costs of an abortion in her situation--including the possible costs to herself, as has been pointed out by a feminist writer, Ginny Earnest Soley:

I believe that women are damaged by having abortions, psychologically, spiritually, and, often, physically. My word to women facing the difficult decision about abortion is not a word of condemnation but a word of encouragement that says that if we are really working at this together, we can do better: We don't have to settle for something that is life-destroying and painful.¹

But when the mother has received all the care and counsel she requires, and when all the voices who must have their say have been heard, it must be recognised that this particular homicide-related decision is ultimately the mother's. That is simply an unavoidable consequence of the unique nature of the mother-foetus relationship. She has an unenviable right and an unavoidable duty to make daily decisions during

¹Ginny Earnest Soley, "To preserve and protect life: A Christian feminist perspective on abortion," Sojourners, October 1986, pp. 34-37.

pregnancy about the life and welfare of her foetus. Whether or not she smokes or takes medication; how much and what kind of exercise, or alcohol, she enjoys; what she eats and how she prepares for labour; her feelings, and behaviour: all these affect her foetus. Some of these and other decisions, under certain circumstances, could mean life or death to her foetus. Her own death, at most stages in the pregnancy, will probably mean her foetus's death too. The quality of her life will affect the quality of her foetus's life. Who, then, can deny her the right to make the final decision about abortion? She is certainly in every sense the one who is closer to the foetus than doctors, judges, and moralists, and even the father. Where the foetus can be regarded--for instance, in case of life-threatening pregnancy--as an unjust aggressor, the victim of that aggression is the mother, and it is the victim of aggression who is allowed the final say in all other cases of justifiable homicide.

This responsibility of the mother is, as Robinson writes, a frightening one: "It is a terrible freedom to have, and for others to share, for another human life is (I would say: "may be") involved."¹ But such is the freedom and responsibility involved in all decisions relating to homicide.

This general truth cannot, of course, apply in all situations. There will be cases of medical emergency, for example, where the decision about abortion must be taken on the operating table by the doctor alone. In

¹Robinson, p. 57.

other instances, the mother is not fit to decide, but unless there is a medical emergency the responsibility for the final decision should not in that case rest with the doctor alone. For example, where the mother is mentally ill or under the age of competency, the family and society would have to share the decision about the foetus's life. But in the great majority of cases, it is the mother who will make the final decision. At some point in making that decision, I suggest, she should be faced with presumptions such as I have suggested concerning homicide--and specifically with the challenges about self-interest and powerlessness. These are hard questions, but I doubt whether the thoughtful mother would not eventually--and hopefully not for the first time when it is too late--find herself asking them.

Robinson and Häring say that the physician is always duty-bound to submit to the mother's decision.¹ This is doubtful. It seems reasonable to allow, except in case of life-threatening emergency, that the surgeon exclude himself/herself from abortion proceedings, if the mother should choose them. (This is the position taken by Catholic tradition, according to Soane, who nevertheless suggests that final decisions about treatment should be "shared" between doctor and patient.²)

¹Ibid., and Häring, p. 115.

²Brendan Soane, "Consent and practice in the Catholic tradition," in Consent in medicine: Convergence and divergence in tradition, ed. G.R. Dunstan and M.J. Skelton (London: King Edward's Hospital, 1983).

Conclusion

In arguing about abortion, people frequently take one of two contrasting positions. They hold either that abortion is wrong, or that the pregnant woman has the right to make a decision about abortion. This chapter has defended both of these two statements, which indicates how complex is the problem. Abortion is never a good thing and always a bad thing, since it denies at least a potential to life, but it can be a necessary evil. And in the end, it is the mother and no one else who has the duty of deciding about the necessity of this evil (if she is fit to do so).

Whether or not this position translates into a call for abortion-on-demand legislation depends on quite another discussion, concerning the function of legislation vis-à-vis social morality. Such an analysis would have to take account of both the rights of society and the need to protect individual conscience, of both the reality of great numbers of illegal and unsanitary abortions and the need for law to uphold widely-held standards. All that is a matter for the ethics of social legislation, which is outside of the scope of the present study in the ethics of homicide. Here, I seek only to make a contribution to the task of discovering ways in which Christians' free decisions can be morally informed.

Some will consider this discussion of abortion liberal, while others will consider it retrograde. It seems appropriate, therefore, to end it with this quotation from Robinson's call for abortion-law reform in Britain:

. . . I regard (abortion) as an evil thing, as a scourge to be removed from any civilised society. For there

is nothing creative about it at all. It is destructive of personal life . . . , it is not in itself therapeutic, except of a purely gynaecological disorder. It is much more likely to bring on adverse physical or psychological consequences. Unlike contraception, it does not make for love. Indeed, as a widespread phenomenon it undermines the relationships as well as the health of a society. Countries that have dropped all barriers to it have on the whole not liked what they have seen, and have drawn back. The question, as I see it, is: How do we abolish abortion?

The challenge of finding a way to "abolish" abortion remains the primary challenge facing Christians in this context. But that is a problem that will not be solved for a long time. Meanwhile, Christian women and men will continue to have to face dreadful life-and-death dilemmas, and these will need to be confronted within a real world in which, contrary to the divine will, many live beset by pain and die beset by futility.

¹Robinson, pp. 66-67.

PART THREE

GENERAL CONCLUSIONS

CHAPTER 5

THE ETHICS OF HOMICIDE

The Sanctity-of-Life Principle is usually defined as: "One ought never to kill an innocent human being." The contextual critique contained in the foregoing chapters has shown that this formulation is fatally inadequate as a basis for the ethics of homicide. The "grey area" issues are far more complex than the Principle allows. The term "innocent" is ambiguous, and misconceived, as the subjective guilt of the person killed is seldom the most pressing criterion for assessing the act of homicide in the "grey areas". And once the word "innocent" is removed from the Principle, the word "never" must follow, as all but the moral perfectionists (whose arguments I have rejected) will concede. Without those two words, the Sanctity-of-Life Principle is simply a statement of the obvious: that to kill a person is wrong unless there is adequate moral justification. Since no one would dispute this, the Principle is of no great worth to morality. Rather, the focus of attention rightly becomes the nature and place of moral justifications of killing.

In order to clarify my conclusion about the Sanctity-of-Life Principle, and to indicate what I am proposing as an alternative direction for the ethics of homicide, it is

appropriate to summarise here what has been discovered so far in this study.

5.1 Review of findings

In Chapter 1, I raised questions concerning the value of general moral laws in assessing the options facing a Christian confronted with a moral dilemma. I showed that while normative statements can have a general guiding impact, it would be incompatible with God-given human freedom and responsibility to assume for any such norm an absolute status. I demonstrated the need to recognise that certain actions can be necessary evils in an imperfect world, and rejected the idea that departure from given norms places one on a "slippery slope" towards the destruction of all morality. Rather than seeking normative absolutes, then, it is necessary to adopt an appropriately respectful, but critical, attitude to Scripture and tradition. The Judeo-Christian heritage is one factor in forming the relationship that a Christian enjoys with God. Within this relationship, it is possible to discern what is right through a combination of intuitive and rational insights. The use of methodological presumptions can assist in this process in order to test one's intuitions and other competing ideas. The moral presumption should prevail unless it can be shown that greater good will result from an exception to it.

The purely theoretical arguments in Chapter 1, then, already cast in some doubt the value of universal norms such as the Sanctity-of-Life Principle. In Chapter 2, I proceeded to examine the question of the sanctity of life itself. Without doubting the critical moral importance of the value of human life, as a fundamental value underlying

all human rights and responsibilities, I showed that those who have sought to grant the right to life an absolute status have failed to recognise the serious conflicts of rights which have sometimes led to justifications of homicide. Christ's teachings and example certainly lend weight to the pacifist position, but there are important hermeneutical difficulties which must be overcome before that weight becomes overpowering. Neither absolute pacifism nor the more limited Sanctity-of-Life Principle (which is concerned only with the lives of "innocent" persons) emerge from analysis as plausible moral positions. They are neither more nor less acceptable than the various casuistic arguments which would seek to apply simplified rules to complex "grey areas" of homicide ethics--such as the alleged justification of killings in self-defence or in defence of one's country.

These arguments led naturally to the formulation of certain methodological presumptions against which intuitions and ideas should be tested in dilemmas concerning homicide. There should be a primary presumption for the preservation of life itself. There should also be secondary presumptions against acts of self-interest; against acts directed against the less powerful; for the principle of proportionality; and for a balance between the need for moral guidance and the ultimate freedom of the Christian conscience. Certain linguistic presumptions were also proposed. In Part Two of the thesis, the various arguments for revolutionary violence and for abortion were weighed against these presumptions. In the light of the presumptions, many of the classic arguments for either of these types of act were found wanting.

I rejected, for example, the justifications of revolutionary violence which are based solely on the last-resort argument. This form of argument assumes that it is possible to analyse history--by means of listing and assessing strategies--while in the process of trying to influence it. Under the most favourable conditions, it is impossible to predict with total reliability the result of a group's actions. Even more so, when the presumption against self-interest is taken into account, it cannot be expected that those who are oppressed can enter into this type of analysis and justify homicide on the basis of it. I recognised that there are no theoretical obstacles to the idea that under certain historical circumstances killings may become the only possible way to achieve necessary ends. But, on the basis of the presumption for proportionality, I suggested that the historical probability that violence will be counterproductive, in most situations, must be taken into account in weighing whether or not it is a legitimate way of seeking the greater good. It is important to recognise also that in reality most arguments about revolutionary violence have little to do with the justifiability of homicide in general. Rather, the interests of those who are arguing tends to affect the position taken on the revolutionary impetus.¹ Clearly, one would wish the arguments about

¹Davies, pp. 164-168, produces a long list of church statements defending the right of people to rebel against their oppressors. But as Villa-Vicencio, Between Christ, p. xxii, notes, while theologians have usually agreed on this principle, "it is more difficult to reach a common mind . . . as to whether a particular government is tyrannical." (Italics mine.)

revolutionary violence to be "realistic" rather than idealistic, but "realism" is not necessarily on the side of violence.¹ In short, it is true that if truly "all else" were known to have failed, violence would be justified, as an alternative to continued oppression of a grave nature, but the arguments produced to legitimate this type of homicide are often untenable.

In looking at the arguments for abortion, I found that there are no valid moral objections in principle to direct abortion where pregnancy threatens the life of the mother and the foetus has no chance of survival. I also found that routine dilation and curettage of rape victims is a sound moral idea, based on the small degree of probability of the foetus being a human person at least within the first fourteen days after conception. On the other hand, I showed that with the advancing stages of pregnancy, the probability of foetal personhood becomes far greater, and thus the presumption for the powerless has significant force over against many arguments produced for abortion. Killing for the sake of the one killed, as is proposed by some for deformed and "unwanted" foetuses, is, in the light of this presumption, as problematic as killing for the sake of the mother (even when she has been raped or

¹The argument on this point between Yoder and Niebuhr is described in some detail in Chapter 3, while a recent pacifist perspective has outlined its implications for South Africa (Wink, pp. 27-31), arguing that not non-violence, but the "dream that violence might produce constructive social change, is an "opium vision with no basis in reality."

is a minor or imbecile). But because the identification of the foetus as a human person is a statement of theoretical probability rather than of certain fact, I argued against drawing absolute conclusions on these matters. Abortions are probably homicide, in most instances, and are therefore probably wrong in most instances, but, as with revolutionary violence, more positive statements should be avoided in principle.

5.2 Assessment of method

At this point, I ask the reader to forgive my striking a personal note which occurs to me to be of great relevance. Many of the findings contained in the contextual critique of homicide ethics have come as a surprise to me. When I commenced this study some years ago, I not only had a sense that the ethics of homicide were problematic, but also had a strong instinct that the Christian would frequently be justified in taking part in revolutionary and obstetric killings. Some years before, my wife and I had helped a young friend who had decided to have an abortion. She delivered a tiny but apparently perfectly formed foetus, and I buried it (or him, in this case) in a public park, feeling some awe over this little creature's short life, but no guilt for having assisted someone who had decided that the termination of that life was necessary. I have never been faced in a similarly direct way with the dilemma of whether or not to assist actively in an act of revolutionary violence, but I have come into contact with those who do support and participate in the armed struggle against apartheid, and I think I understand, respect, and instinctively sympathise

with their position, acknowledging their willingness to make supreme personal sacrifices in the cause of justice.

The relevance of this is that the intuitions I have in these matters of abortion and revolutionary violence are far from identical to the conclusions I have been led to when confronting the forms of argument for homicide in these cases in the light of the methodological presumptions that commended themselves. I am intuitively uncomfortable with many of my own findings. While this thesis has not made absolute judgements on the "grey area" issues, the general thrust of these judgements has been to severely question the arguments for homicide. To some extent, then, this study has represented an internal battle between rationality and intuition, and whether or not its preliminary conclusions are right (perhaps the presumptions are invalid; perhaps the logic is flawed), the possibility of "mind" criticising "heart" suggests that the methodology experimented with here is both valid and helpful. I say this because the single greatest methodological challenge identified in Chapter 1 was the need for an approach which would recognise a place for intuition in ethics, but find a way of subjecting intuitions to criticism without falling foul of casuistry or legalism.

It seems to follow, then, that the primary aim of this study has been achieved. That aim was to find a way of reflecting on "grey area" issues of homicide from a disciplined but de-absolutising perspective. There is, however, an alternative, less encouraging way of reading the apparent conflict between my intuitions and my conclusions.

It could be that the method fails to give account of the suffering which usually underlies a decision to kill a human being (or a foetus). With the presumptions standing like monsters guarding the gates of moral rectitude, is there sufficient room in this method for compassion? Or does the forensic model in the end ensure that contextuality must yield to the blindfolded supermorality which should (as was argued in Chapter 1) be more characteristic of criminal justice than of Christian faith?

Perhaps all rational methods are inclined to fail the test of compassion, but there may possibly be room for the development of some kind of calculus of suffering to complement methodological presumptions and provide a counterbalance to their logical impressiveness. After all, it has already been recognised in the presumption for proportionality that there can exist extreme conflicts of rights where the right to life is outweighed by other factors. Such a calculus of suffering would give more weight than has perhaps been allowed for above to such conditions as helplessness, loneliness, alienation, extreme deformity, enduring pain, humiliation, despair, deprivation of dignity, and others. All of these could in principle provide utilitarian counterweights to the presumptions. In this way, the ethics of homicide could become more sensitive to the depths of human emotion, without discarding the necessary cautions provided by the presumptions for life, for the powerless, against self-interest, and so on.

It has been acknowledged in previous chapters that there are inherent difficulties in comparing the value of life to other values--in other words, comparing death

with suffering. How would one do the complicated arithmetic which the calculus of suffering would inevitably involve? Is it justifiable to kill a tyrant if ten percent of his or her people have no meat to eat? If fifty percent are technically undernourished? If ninety percent live in fear of arbitrary imprisonment or exile? These things are not easy to measure. Nor are mathematical problems the only obstacles to the calculus of suffering. Three other problems arise.

The first is Berger's "postulate of ignorance", which has already been referred to in this thesis:¹ the impossibility of being able to predict certainly what the results of action or inaction will be in any situation, and therefore the difficulty inherent in such statements as: "If I kill X, then Y will suffer less than at present." But there is no living without risks, and the problem of ignorance, while always an obstacle to utilitarianism, must be viewed realistically, rather than with an attitude of hopelessness. It will be less of a problem in some situations than in others. For example, it will be less of an obstacle in cases where an abortion is being justified on the basis of Down's Syndrome in the foetus (where this has been diagnosed by means of amniocentesis), than in cases where insurrection is justified on the basis that this will necessarily diminish popular suffering.

The second major problem is the tendency to see the suffering that is before one's eyes, rather than the suffering that is, while no less real but not readily apparent. Some

¹See pp. 207-208 above.

way would have to be found of compensating for this if a calculus of suffering were used to justify homicide. For instance, it is easier to observe the dehumanisation and starvation of today's masses than the bitterness and resentments which lie beneath the surface and which, under post-revolutionary conditions, would explode in various ways that might be counterproductive to the revolutionary ideals. Similarly, it is easier to see mothers and their living families than foetuses, and thus a calculus of suffering would tend to neglect the interests of the foetus in favour of the prevention of suffering in favour of those who are already born.

The third potential problem which would be associated with the introduction of a calculus of suffering could be characterised by a biblical anecdote which it calls to mind: the logic used by Caiaphas, who held that it was "expedient that one man should die" rather than risk the destruction of a nation (John 11:50). In ruling that a homicide would be the most expedient way to avoid suffering, Caiaphas was, of course, identifying his own interest (in preserving power, in this case) with the common good. The calculus of suffering, being an extremely subjective type of formula, would provide a relatively easy way to justify arguments of expedience which would otherwise not be able to withstand the counterveiling force of the presumptions regarding the preservation of life, and especially self-interest.

These problems are not necessarily insuperable. There is an intuitive difference, for example, between Caiaphas's transparently self-serving expediency, on the one hand, and the cry of a mother for the sake of her family against

the birth of a hopelessly deformed child for whom the family is unable to care, or the cry of a black youth who has seen her people suffering under the yoke of apartheid for generations and says "no more", on the other. The purpose of seeking ways of making moral decisions is not to change the mind of a person who has made up his or her mind to kill, and is looking for excuses (for this would be a waste of time), but to help resolve dilemmas for the one who does not know what to do. Therefore, if the presumptions against self-interest and for the powerless can be looked in the eye and seriously weighed, if the seriousness of homicide can be faced up to instead of being avoided or ignored, who can deny the need in this context to look also at the amount of suffering that is present and is likely to result from the choice made?

5.3 On making judgements

The point which has just been made emphasises the seriousness of recognising clearly who it is who makes a moral decision. Who, for example, is in a position to make a final decision about abortion? I argued in Chapter 4 that, contrary to various alternative views of medical ethics, the only plausible answer to this question is the mother. She is the one who is "tied" in a most literal sense to the foetus. She may decide rightly or wrongly, and she would be wise, no doubt, to consider carefully the counsel of doctors, relatives, moralists, and friends, but it is she who must--and will--decide. And who will decide about taking part in revolutionary violence? Not, for the most part, theological scholars, and not the members

of privileged classes, whose views are usually represented in the editorial columns of newspapers, in the boardrooms of corporations, and in the corridors of political power. The ones who will decide are the ones for whom there seems no other decision to be made: those who have been systematically deprived of access to political and economic means of otherwise influencing the course of history, and even of more basic necessities like food and land and dignity. It is unlikely that their decision will be influenced by this, or any other, study of morality. It is probably true to say of homicide (not only in the revolutionary situation but in general) that it usually expresses feelings rather than the results of analysis. (Presumably, that is why the framers of criminal law cite premeditation as one essential criterion which makes a homicide "murder"). Understanding this implies a sobering, but necessary, limitation on the role that can be played by ethical reflection. To a large extent, one must accept that there will be violence in societies, and that the function of Christian ethical reflection is something other than persuading those drawn to it against yielding to the temptation.

What, then, is the role of Christian morality in this context? I suggest that the main question facing Christians who "have the space" to make decisions about homicide, is whether or not they will legitimate it. In other words, the ones who must decide morally about homicide are those who have not yet decided--obviously enough! What, for example, will be the response of Christians who have not (yet) chosen to participate in, but sympathise with the

goals of revolutionary violence in a particular situation? There are variety of possible responses, from outright condemnation and excommunication of those who unrepentantly commit homicide, to open support and encouragement of the activity. I have argued against both of these extreme options. Homicide is justifiable under some circumstances, and it is implausible that the church, which has lent its weight to wars and other types of killings for almost its entire history, should condemn so positively those who feel justified in killing in a revolutionary cause. On the other hand, how can one give unqualified support to acts that one considers counterproductive or otherwise inappropriate--acts which, for one good reason or another, one has decided not to participate in for moral reasons? The preferred option, I suggest, lies between these poles. One can accept, first, that it is inevitable that some will turn to violence, and second, that people are free to decide, under extreme circumstances, whether or not they will do so. If one accepts these two things, but for reasons of principle or analysis (such as that the acts are counterproductive) chooses not to take part in the violence, one can be respectfully critical of the violence, while throwing one's weight, in non-violent ways, behind the revolutionary cause.

What would be involved in this attitude of respectful criticism, apart from the two acceptances stated above (that violence is inevitable, and people are free to make moral choices about participating in it)? An illustration of the answer is perhaps provided by the often-publicised

actions in recent years of black Christian leaders like Archbishop Desmond Tutu and the Revd Alan Boesak. During emotional events such as the funerals of activists and other gatherings, those leaders have sometimes found themselves in a situation where the mood of the crowd turned to violence. By their presence and in their words, the church leaders have shown that they are in solidarity with the cry of the oppressed for justice. But by shielding--sometimes at great risk to themselves--from violence those individuals against whom the crowds turn in a desire to vent their rage, these clergy have indicated clearly not only that they cannot personally legitimate violence, but that they are willing to risk their own lives in an attempt to save the life of someone else (whose innocence or guilt of, say, complicity in oppression, has not seemed to be an important issue in the eyes of the leaders seeking to save them). The crowds have not seemed to turn against the church leaders for obstructing the homicidal acts, perhaps because the leaders so clearly do not stand against, but for, the crowds. Thus Tutu, Boesak and others have managed to maintain a respectfully critical position vis-à-vis violence, while retaining a position of solidarity with the oppressed.

It is thus not to enraged masses that Christian moral reflection on violence is addressed, but to those who do have the privileged position of being able to reflect on the problem ethically. And the call for ethical reflection is not the same as that made by Jacques Ellul for Christians to join revolutionary movements while abstaining from the

violent acts perpetrated by those movements.¹ Unlike Ellul, I recognise first, that Christians may disagree with the position for non-violence, and second, that there is no point in joining a violent movement while seeking to keep one's hands clean of the violence. The attitude of respectful criticism is one which recognises that people who are in a position to decide freely, are free to decide.

In short, if one decides for revolutionary violence, or for abortion, or other kinds of homicide which one sees as justifiable, then one is entitled to the critical respect of those Christians who have decided against it. And if one decides against it, then one is obliged to give critical respect to those who have, with at least as much agony as oneself, been led to decide for it. The reverse, of course, applies with equal force. Such an attitude of mutual respect is called for not only because of the fact that the deciders come from different backgrounds and "spaces". It is also called for because of the very complexity of the issues related to homicide in the "grey areas". As Chapter 4 noted in respect of the moral implications of the uncertain status of the foetus, a difficult decision made about a theoretically uncertain and complicated matter does not appropriately lead to a dogmatic moralistic stance. In the case of abortion, there is a close "judgement call" on the moral status of the foetus. In the case of revolutionary violence, much hinges on a judgement concerning the productivity or counterproductivity of such acts. No one rightly claims

¹See pp. 211-212 above.

to possess certainty on such matters of fact or theory. Yet once these judgements have been made, positivist moral rhetoric so often appears on the scene--on both sides of the argument. The debates about homicide issues would be markedly more communicative if uncertainties about factual and theoretical matters were recalled when normative statements were being made.

It is perhaps ironic--but appropriate--that a thesis which is in part about abortion should lend itself to being described as both pro-choice and pro-life. But that is how these findings can be accurately characterised. The study has affirmed the value of human life, and the inevitable wrongness of killing. Yet it has also affirmed that evils can be necessary, and that Christians and other people need to make free choices on difficult moral questions--including homicide, which can be the least wrong thing to do in a situation.

5.4 The last word

If this concluding chapter has failed to arrive at final "conclusions" on the "grey areas" of homicide, that is hardly surprising. The only conclusions that count in the end are those reached by the people who have to make specific choices in specific situations. As Part One of the thesis made clear, the purpose was not to discover a new casuistry for abortion or revolutionary violence, but rather to explore a pattern of analysis which would take account of both the imperative for obedience and the gift of freedom, of both the faculty of intuition and that of reason, and of both the sanctity of human life and the limitations of the Sanctity-

of-Life Principle.

In the course of that process, a necessary ambivalence about justifications for homicide has appeared on the scene again and again. Homicide is never good, but can be a necessary evil. The importance of retaining perspective on this ambivalence is eloquently shown in a statement by East German church leaders on the South African revolutionary struggle:

Christ's act of reconciliation, his commandment to love one's neighbours and one's enemies, and his interpretation of the Fifth Commandment exclude any justification of the use of violence (Yet) we live in a world which bears the mark of injustice and repressive violence, and we are complicit in its guilt. In this world we may stumble into borderline situations, in which we see no other possibility to work effectively for the justice and dignity of our neighbour than by the use of violence, which itself always remains questionable. The contradiction which lies in this cannot be solved rationally. It prevents our self-justification and our condemnation of others, and makes us dependent on God's gracious judgement. . . .

We must call guilt by its name and damage by its name, and we must resist the temptation to make euphemisms for the use of violence as "just struggle" or "just rebellion".¹

The first moral imperative for the Christian is, then, to oppose homicide. To oppose it does not mean to condemn those who, out of desperation, do desperate things. Rather, it means working with God to create a world in which there

¹"Position paper on the issue of the use of violence in the struggle against racism in South Africa," issued by the Conference of Protestant Church Leaders of the Federation of Protestant Churches, German Democratic Republic, July 1979.

is less despair. In the case of abortion, for example, this means seeking ways to prevent the conception of unwanted children, and to care both for those who are born unwanted, and for their parents. In the case of revolutionary violence, it means working conscientiously for justice and peace.

What, then, has this study achieved? At the very least, it has shown that there are important common characteristics of the "grey areas" of the ethics of homicide, and that these ethical issues are best considered in the context of the "big picture" of the sanctity of life rather than in isolation from one another. I have proposed a method which could contribute to the process of making serious moral decisions in this broad framework. In the process, I have offered certain methodological presumptions which may allow for, and discipline, utilitarian decision-making, teaching and counselling on homicide. In the end, though, the hard choices will continue to be made by people in hard situations. They may be informed by such teaching and counselling as is available, but in the lonely hour of choosing, their most important resource would be an awareness that they are creatures of a divine Creator who does not want death, but life without limitations, for those whom he formed out of nothing to be his children, his stewards, his lovers.

* * *

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THE ETHICS OF HOMICIDE

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